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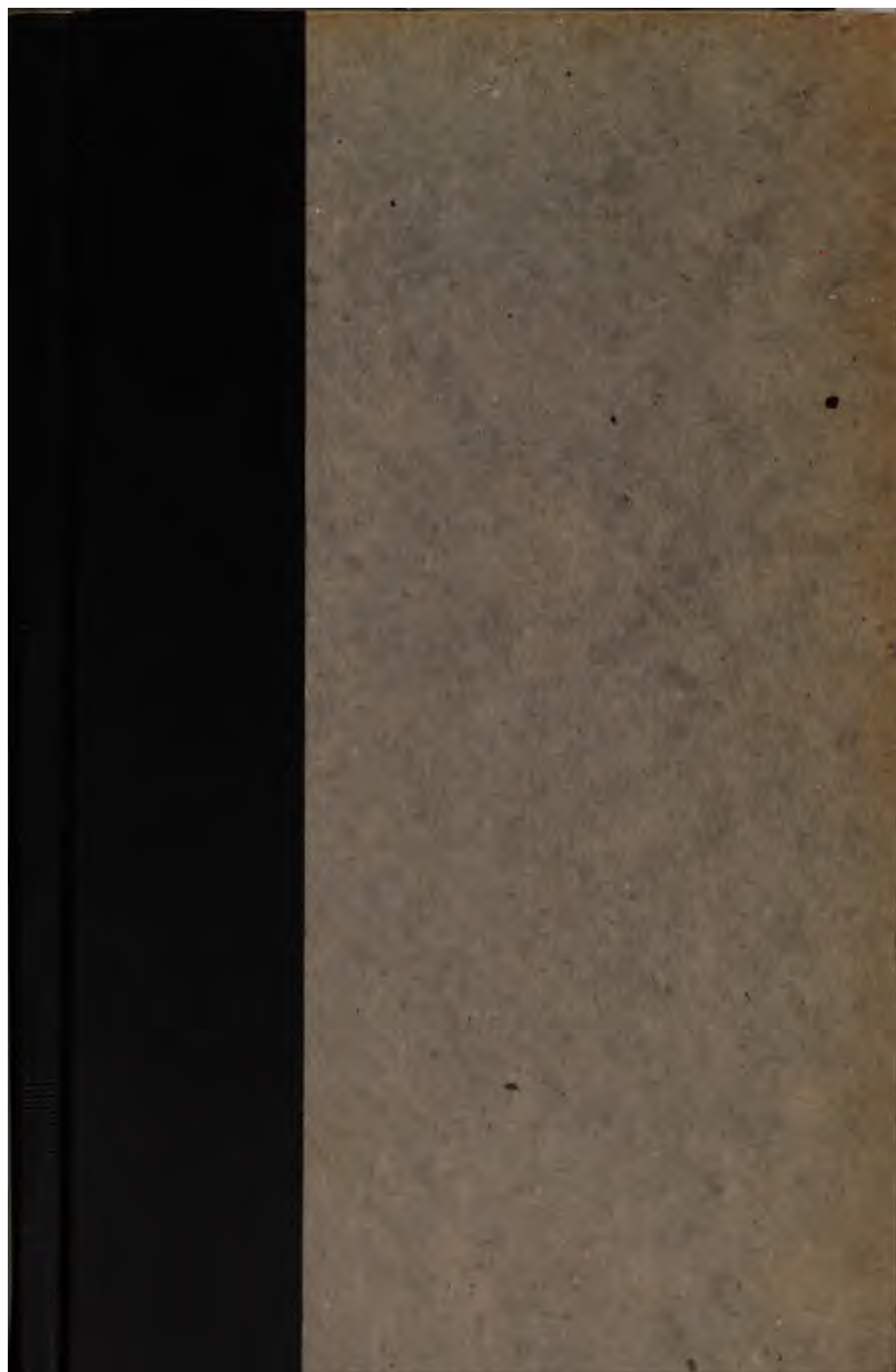
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OF THE

DEPARTMENT OF THE INTERIOR

AND OF THE

BUREAU OF FORESTRY

HEARINGS HELD BEFORE
THE JOINT COMMITTEE OF CONGRESS

RELATIVE TO THE

INVESTIGATION OF THE DEPARTMENT OF THE
INTERIOR AND ITS SEVERAL BUREAUS, OFFI-
CERS, AND EMPLOYEES, AND OF THE BUREAU
OF FORESTRY, IN THE DEPARTMENT OF AGRI-
CULTURE, AND ITS OFFICERS AND EMPLOYEES

VOLUME II

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PAUL SLEMAN, Secretary.

NO. 12

**HEARINGS BEFORE THE COMMITTEE TO INVESTIGATE THE
INTERIOR DEPARTMENT AND FORESTRY SERVICE**

FEBRUARY 19, 1910

**ROOM 207, SENATE OFFICE BUILDING
WASHINGTON, D. C.**

INVESTIGATION OF INTERIOR DEPARTMENT AND BUREAU OF FORESTRY.

SATURDAY, FEBRUARY 19, 1910.

JOINT COMMITTEE TO INVESTIGATE THE INTERIOR
DEPARTMENT AND FOREST SERVICE,
Washington, February 19, 1910.

The Joint Committee to Investigate the Interior Department and Forest Service met, pursuant to adjournment, at 10 a. m.

Present, Senators Nelson (chairman), Flint, Sutherland, Root, Fletcher, and Purcell; Representatives Denby, Madison, James, and Graham; Mr. Paul Sleman, secretary; also Mr. Louis D. Brandeis and Mr. Joseph P. Cotton, jr., representing Mr. Louis R. Glavis; also Mr. George Wharton Pepper, representing Mr. Gifford Pinchot; also Messrs. John J. Vertrees and Carl Rasch, representing Secretary Ballinger; also Mr. E. C. Finney.

The CHAIRMAN. The committee will come to order and the hearing will proceed.

Mr. VERTREES. Mr. Chairman, we do not desire to cross-examine Mr. Glavis any further.

The CHAIRMAN. Very well. Mr. Brandeis.

Mr. BRANDEIS. My redirect examination consists practically merely of putting in documents, in view of the suggestion of having Mr. Hoyt released as soon as possible. I will call him now and simply put in the documents.

TESTIMONY OF HENRY M. HOYT.]

HENRY M. HOYT, having been first duly sworn by the chairman, testified as follows:

Mr. BRANDEIS. Mr. Hoyt, you are now the attorney-general of Porto Rico?

Mr. HOYT. Yes, sir.

Mr. BRANDEIS. And how long have you filled that office?

Mr. HOYT. A little more than two years.

Mr. BRANDEIS. And what was your position with the Government before that time?

Mr. HOYT. I was United States attorney at Nome, Alaska, for about three years, from the summer of 1904 to the beginning of 1907; and then during a part of that last year I was holding a special appointment from the Attorney-General as assistant United States attorney in the State of Washington, and also when I resigned my office in Alaska I was regular assistant United States attorney at Seattle, Wash., for a few months.

Mr. BRANDEIS. And it was in connection with your position as assistant United States attorney that you were aided by Mr. Louis

R. Glavis in the Portland Coal and Coke Company and the Wilson Coal Company cases?

Mr. HOYT. In both capacities, as special assistant and as regular assistant.

Mr. BRANDEIS. I wish you would state to the committee the extent of your knowledge of Mr. Glavis's work in his capacity as chief of division or special agent, and the character of that work.

Mr. HOYT. The work?

Mr. BRANDEIS. The work that he has done for the Government in the capacity with which you are familiar.

Mr. HOYT. Well, the work, the most important work, that Mr. Glavis and I did together was in the Wilson coal cases and the Portland Coal and Coke Company cases, and in addition to that I had occasion to advise Mr. Glavis in a good many of his land matters which were being investigated by him at that time. Did you say the importance of the work?

Mr. BRANDEIS. The importance and character and quality of the work.

Mr. HOYT. In the Alaska Coal and Coke Company cases we recovered a developed coal mine shipping a certain number of car-loads—I do not remember the number—every day, and in the Portland Coal and Coke Company cases we recovered what amounted in all to about 6,300 acres of coal and timber land; that is, it was coal land, but also valuable for timber; in the suits themselves, they of course only embraced the lands which had passed to patent. But in the same groups in both instances were cases which were pending in the land department and which were cancelable upon the same grounds as those proved in the court for the cancellation of the patents, as I understand it. So that altogether as the direct and indirect result of those suits recoveries were made of the lands which I have described.

Mr. BRANDEIS. Now, will you state to the committee the character of the work done by Mr. Glavis, its quality and its value to the Government; and generally what do you know in regard to his services in the office which he filled.

Mr. HOYT. Mr. Glavis's work was work which, in my judgment, was of a very high order; very intelligently done; very skillfully done, and very thoroughly done.

Mr. BRANDEIS. Now, passing for the moment to your relations with Mr. Glavis, in connection with an application to Attorney-General Wickersham concerning the construction of the act of May 28, 1908, I wish you would state fully, from beginning to end, all that you had to do with that matter.

Mr. HOYT. Some time last May (1909) Mr. Glavis left a card, I believe, at the Cosmos Club, where I was stopping at the time, in Washington, indicating that he desired very much to see me. When I got that card I went down and hunted him up, as I recall; I first went to the office of the Secretary of the Interior, and was told that Mr. Glavis could be found probably across the street in the Land Office. I went over there and found him.

Senator FLETCHER. Not to interrupt you, Mr. Hoyt, but do you remember when that was?

Mr. HOYT. I haven't any idea what date it was.

THE CHAIRMAN. It was in May, I think you said.

Mr. HOYT. It was in May.

Senator PURCELL. 1909?

Mr. HOYT. Yes, sir. And Mr. Glavis at once informed me that he was very glad to see me, because he found himself in a very troubled situation, and he wanted to ask me privately about it, so we walked around on the streets and discussed what he had to say to me. And he told me that—he began back a little way in his story which he told to me—he called my attention to those Alaska coal lands about which he had sometimes consulted me in the past when I was out on the Pacific coast, and he told me, that some time ago, an act of Congress had been passed, the act which was talked about here a good deal—the act of 1908, May, 1908, I think, and that various opinions seemed to be entertained in the Land Department as to what was the effect of that act, and Mr. Glavis himself was of the opinion as he explained to me, that the act did not purport to cure any irregularities of any kind; that it did not appear to him to be a curative act, and he said there were others in the department that believed that it did have the effect of curing past irregularities. So he said that in that state of the case, he knowing that Mr. Ballinger in the interval between the time when he was commissioner of lands and the time when he was Secretary of the Interior—had occasion to prosecute some business for some coal claimants, and that that being so and Mr. Glavis feeling that if the department should pass upon the effect of that act of 1908, the result would be one that might reflect discredit upon Mr. Ballinger, because he anticipated that if there was a decision there in the department it would be favorable to the Alaska coal claimants, on account of the views which those gentlemen held as to its being a curative act. Therefore he had gone to Mr. Ballinger some time before and had told him that, as a matter of self-protection he did not think that he could afford to have those matters passed upon in the department without the judgment of the highest law officer of the Government; because, as he explained to him, that no matter whether that decision in the department would be correct or not—

When the public learns that you have been advising—

He was talking to Mr. Ballinger, of course—

when the public learns that you have been advising these persons about those matters and then a decision is rendered in your department, the public will never be able to abstain from blaming you as the head of the department for that decision.

I think I have neglected to state that Mr. Glavis also informed me in this same interview, in relating these various matters, that Mr. Ballinger had taken the position when he became Secretary of the Interior that on account of having represented some of these claimants he considered himself thereby disqualified from attending to those matters in the Land Department, and had left them, by his direction, in the hands of Assistant Secretary Pierce.

Now, Mr. Glavis went on and told me that in consequence of this interview that he had with Mr. Ballinger, in which he had pointed out to him what I have just stated, that he could not afford to let that decision be made without the decision of the Attorney-General, and recommending to him strongly to have the matter submitted to the Attorney-General; and Mr. Ballinger agreed with him, and it was determined that that would be done.

So, then, Mr. Glavis, who, as he described it to me, was very much worried about this whole matter, felt very much easier in his mind; his mind was at rest upon the assurance which he then received that the matter would be referred to the Attorney-General. Then he said a little later he was very much surprised to find that that plan of submitting the matter to the Attorney-General had been abandoned, and the matter was to be decided by Assistant Secretary Pierce, and the matter was decided by Assistant Secretary Pierce.

Now, I will have to go back again, because I find I have forgotten some things. In the preliminary part of this matter he explained to me that when it was decided to submit the matter to the Attorney-General, Mr. Ballinger had said to him that he wanted him to get up a statement of hypothetical cases to submit in a letter to the Attorney-General, so that the matter could be properly passed upon by the Attorney-General, and, as I recollect it, that Mr. Glavis and some of the department officers got up this statement which Mr. Glavis showed to me at the time—afterwards got up this statement to submit to the Attorney-General. Then Mr. Glavis—resuming my story now at the proper chronological point—Mr. Glavis then showed to me the decision of Assistant Secretary Pierce; he showed me a pamphlet copy of the act of 1908, which had been held by Mr. Pierce to cure irregularities, and he asked me if I did not think that that was a mistaken opinion, and I looked at it and I said that I did. Then he told me that the next administrative step for him to take, in view of that opinion, would be to make a report on these claims, clear listing them for patents, as he described it; and he said he did not see how he could possibly do that, although in order not to do it he would have to be insubordinate. He said:

I do not see how I can, believing as I do that these claims are fraudulent, and that that act did not condone the fraud. I do not see how I can clear list those lands for patent.

He further explained to me that the lands were variously estimated to be of the value of perhaps a thousand millions of dollars; and he said:

Here is the Taft administration that has just started in, and the way I look at it the public is not going to believe that this thing is straight, and I do not know what to do about it.

Mr. JAMES. Just a moment. Did he say that the Cunningham group was estimated at a thousand million dollars?

Mr. HOYT. At the time I did not make any distinction between different groups; I knew something about the Cunningham group, but I considered that this matter referred to the whole of the Alaska claims. I did not go deeply into the matter; just superficially.

Mr. JAMES. I just wanted to know whether he had made the statement.

Mr. HOYT. So I said to Mr. Glavis that I entirely shared his apprehension, and I wished very much that something could be done to save the administration from the effect of what I believed would be a very serious mistake. And at first I suggested to Mr. Glavis that Mr. Horace Taft was a very warm friend of mine and a classmate of mine at college, and that he is now keeping a school over in Connecticut, and I believed I would run over there and tell him all about it and ask him to go to the President. And to that suggestion Mr. Glavis replied that that would perhaps be a good thing to do, except

that he was already embarrassed from having waited several days without making the report which was expected of him. And for one reason and another we abandoned the project of my going over to see Mr. Horace Taft about it. And then Mr. Glavis and I both believed after discussing it, that the Attorney-General of the United States would likely reach a different conclusion about these matters from what Assistant Secretary Pierce had reached, if it could be got before the Attorney-General, and I remember asking Mr. Glavis if he was acquainted with the Attorney-General and he said yes; he had seen him about some other matters, but that he did not feel well enough acquainted with him to go to him about as delicate a matter as that, and I said then that although I was very slightly acquainted with the Attorney-General that my acquaintance with him was a very pleasant and agreeable one and I was in that department of the Government. I said, what do you think of my going to the Attorney-General myself and explaining the matter briefly to him so that he will give you a hearing on it and see if something can be done and he thought that would be a fine thing to do if I was willing to do it, and I said I was willing to do it.

So I went to the Attorney-General between 4 and 5 o'clock in the afternoon; I do not know what date that was, but went to him between 4 and 5 o'clock in the afternoon. I can remember it was quite late, and got to see him in just a few moments. I did not have to wait at all. I just went right in. I told him it was an important matter I wanted to see him about, and I remember being very much disturbed about the matter myself and very much agitated about it, because I realized that I was in a delicate position myself; that in a way it was none of my business, but I told him as briefly as I could the main facts which I have just been telling you about of this story. I showed him the statute. I showed him the decision of Assistant Secretary Pierce. I had some other papers with me; I do not remember what they were, except I remember I had one paper with a little quotation from the decision of Judge Hanford in the Portland Coal and Coke Company cases and a reference to the Trinidad coal case, and I said to him in addition what I have related about what Mr. Glavis had related to me. I stated: "I have known this young man Glavis most intimately and have worked with him, and I know what kind of a man he is. I will be entirely accountable to you for Mr. Glavis being an entirely honest, honorable, and upright young man. I know him beyond any possibility of a doubt, and Mr. Glavis is going to be entirely satisfied to let this matter drop right where it is if he finds that you agree with the decision of Assistant Secretary Pierce, but we both feel that the administration can not afford to have the administration of these lands rest upon the decision of Assistant Secretary Pierce, right or wrong, because, in the first place, they are of such immense value; in the second place, Mr. Secretary Ballinger was employed as the attorney in some of those claims; and in the third place, Mr. Ballinger had decided to have the matter submitted to the Attorney-General and then for some reason that programme was changed, and that presents a group of circumstances which, in my judgment, will cause a very great scandal to this administration if the matter is now administered without the decision of the Attorney-General of the United States."

I remember making this specific remark to him, that certain steps had already been taken which would be very difficult to retrace without a scandal; that if this next step of clear listing the lands for patents is taken it will be in my judgment impossible to escape a scandal. Attorney-General Wickersham entirely agreed with me that that was the situation, and he also, with merely a superficial examination of the statutes and the decision of Mr. Pierce, agreed that it was wrong—at least it appeared to be wrong as well to him as it did to me. He said, "I agree that the matter should be submitted to me," but he said, "How can we do that; how can that be done?" and he got up and walked around the room a little. He said, "Can you get hold of Mr. Glavis?" and I said, "Yes." "Well," he said, "I think there is only one thing to be done about it." He said, "You ask Mr. Glavis to come here to my office at 10 o'clock sharp to-morrow morning. There will be a Cabinet meeting at 11 o'clock. He can come in here at 10 o'clock and see me and then I can truthfully say to the Secretary that Mr. Glavis has been to see me about it and that he is troubled, and that in view of all the circumstances I really think he better send those matters over to me for a decision of the law department of the Government." Then I said to him something about I hoped Mr. Glavis might be saved from any future troubles on account of this irregular step which he was taking, and he said, "I will try to explain to Mr. Ballinger that while, of course, it is a very irregular thing for Mr. Glavis to go over the head of his superior that way, at the same time I will try to explain that the worst the boy has done is to be a little overzealous and all that," and he said, "I will try and fix it so he will be all right." So I left the papers with the Attorney-General. That is all I know about it. If you want me to tell what I did thereafter, I will do so.

Mr. BRANDEIS. Yes.

Mr. HOYT. Then I went down and told Mr. Glavis all about it. I do not remember where I found him. I think I went out to the house where he was living or lodging.

Mr. BRANDEIS. Congressman Livingston's?

Mr. HOYT. I think so. At Congressman Livingston's house over on Biltmore street. Anyhow I found him at once, and he was very much delighted and relieved, and I told him to go to the Attorney-General's office at 10 o'clock to-morrow morning sharp, and I thought the thing would be arranged all right.

Mr. BRANDEIS. Did you see Mr. Glavis after that?

Mr. HOYT. Yes, sir; I saw him every day after that for two or three days, and to his astonishment and to my own, too, because I expected that the matter would be very quickly taken up, he told me that he had heard nothing further about it after seeing the Attorney-General; that he had seen the Attorney-General, but since then had heard nothing further about it, and that the days were going by and that again he felt he would have to make that report clear listing those lands or else get out of the government service. Then, about two days and a half afterwards, at least, or something about that time—two or three days—I saw him and he said "It is all right." He said, "I went up to see Mr. Ballinger and told him I was ready to go out West again, and Mr. Ballinger told me that I had better stay, 'Because,' he said, 'I have decided to submit that matter to the Attorney-General.'" He said that Mr. Ballinger showed him then a

letter from Miles C. Moore, ex-governor of Washington, which he had received, and which he considered a very insulting and outrageous letter, and that he had carried that letter to the President of the United States and that the President had read it and in the letter there was something about—of course I am telling you now what Mr. Glavis told me as his recollection of what this letter said—that in this letter from Mr. Moore to Mr. Ballinger there was something about how “we thought when you became Secretary of the Interior we would have no further trouble in getting our patents to these lands,” and when he showed that letter to the President the President said, “That is a very extraordinary letter for anybody to write,” and I said I agreed with him, and he said, “I think under the circumstances that the best thing you can do is to submit this matter to the Attorney-General.” He said, “It is to be submitted to the Attorney-General, and you need not make that report.” Mr. Glavis told him then that he had made the report, and he said, “Then withdraw the report, because it is going to be decided on the decision of the Attorney-General; it is going to be submitted to the Attorney-General.”

Mr. BRANDEIS. You spoke of several other papers which were handed you at the time and that you went to the Attorney-General, but which you did not recall or did not mention, specifically at all events, what they were. Can you now remember?

Mr. HORT. I can not remember now what they were. I do remember that I left with the Attorney-General the pamphlet copy of that act of 1908, that copy of the Pierce decision, and a copy of the letter which was to have been submitted to the Attorney-General asking for an opinion, and I think something else, but I can not at this time tell what the other one was. It seems that it was some sort of law memorandum. I do not know what it was now.

Mr. BRANDEIS. Had you any recollection, at the time of the Cunningham report, the special matter of the Cunningham cases coming up?

Mr. HORT. You mean in my interview with the Attorney-General?

Mr. BRANDEIS. In the first place, in your interview with Mr. Glavis before you went to the Attorney-General, and then to the Attorney-General?

Mr. HORT. We talked about the Cunningham claims, but I think I had a very confused idea about that time about the Cunningham claims and about the general Alaska coal situation, because I remember I was surprised later to find that the Cunningham claims were only 33 in number. I had not distinguished between the Cunningham claims and the Alaska claims generally at that time.

Mr. BRANDEIS. What, if anything, have you had to do with this matter since that time or since the last interview with Mr. Glavis when he reported on his talk with Secretary Ballinger.

Mr. HORT. Nothing at all that I know of.

Senator FLINT. What was that question?

Mr. BRANDEIS. I asked him what he had to do with this matter since that time.

Mr. HORT. You asked me what, if anything.

Mr. BRANDEIS. Whether prior to this investigation, and specifically if at any time while this matter was under investigation by the President, you were in any way consulted by the Attorney-General or by the President?

Mr. HOYT. You mean what time?

Mr. BRANDEIS. Since the letter of Mr. Glavis to the President in August, which was submitted in August, up to the time when you were called here as a witness.

Mr. HOYT. No, sir; not at all; not a word.

Mr. BRANDEIS. Then you received in noway any communication from the Attorney-General?

Mr. HOYT. No, sir.

Mr. BRANDEIS. In regard to this matter?

Mr. HOYT. Not at all.

Mr. BRANDEIS. Your first knowledge of it was from the public print?

Mr. HOYT. Yes, sir.

Mr. BRANDEIS. You have, I suppose, conferred with the Attorney-General since you have been here?

Mr. HOYT. Yes, sir.

Mr. BRANDEIS. Passing now to the matter of the Wilson Coal Company cases in which Mr. Glavis was associated with you, there was considerable discussion here in the testimony in relation to the deposition and statement and afterwards deposition of one Watson Allen, in which a certain escrow agreement and deeds were referred to, which was said to have been drawn by Mr. Ballinger before he became Commissioner of the Land Office, and there was also some reference to an understanding or stipulation of counsel that when that testimony should be put into the record, the general designation of attorneys should be substituted for Mr. Ballinger and his firm. Will you state your recollection as to the original statement made by Watson Allen and also as to any stipulation?

Mr. HOYT. When Mr. Glavis laid all those matters concerning the Wilson Coal Company before me, we came across, in the abstract of the title, a reference to some conveyances to Watson Allen, and Mr. Glavis and I concluded that we had better get a statement from Mr. Watson Allen just what his connection was with the matter, so we made an appointment with him and he came to the office of the United States attorney. That was my office. For some reason or other, we had to get, or we did get, a stenographer from the Land Office, some person that Mr. Glavis knew, and then we took this statement of Mr. Watson Allen. The reason I remember the stenographer is because he was unable afterwards to properly decipher his notes so that the statement was rather a mixed-up statement. But I know that in the statement it transpired that the agreement that was entered into between certain parties and Mr. Watson Allen was prepared in the office of Judge Ballinger and by his advice. Some agreement looking to the assignment of two patented claims and some other claims which were pending in the Land Office, and as I recollect the testimony, I have not seen it since, at least I have not seen it since a couple of years ago, but as I recollect it the papers were put in escrow and there was some sort of an escrow agreement, either an agreement or a memorandum of the agreement, or something like that, in relation to this transaction about these claims.

Then later on when it came to the trial of the case I thought it would be desirable to keep the name of Mr. Ballinger and his firm out of the record for the reason that if it was in the record people would attach undue significance to it; that uninformed people might easily

draw some conclusion that Mr. Ballinger was mixed up in some fraudulent deal, and being at that time the Commissioner of the Land Office I did not think it was proper to subject Mr. Ballinger to such criticism; and as long as it was not material to our case at all as to who the lawyer was who drew this agreement, I suggested to counsel for the other side, Mr. Murphy, that we keep Mr. Ballinger's name out of the record if possible, and he said, "That is all right." He said, "I have no wish to have Mr. Ballinger's name put in at all." So when upon the hearing Mr. Watson Allen, who, by the way, was an old man and in very feeble health, mentioned the name of Mr. Ballinger a number of times in his testimony I was a little annoyed, because I had left it to Mr. Murphy, the attorney on the other side, to caution Mr. Allen not to lug in Mr. Ballinger's name; so either we had a further stipulation, or at least I wrote on the margin that, "as per stipulation, strike out the names of the attorneys wherever they appear," something like that, and insert "our attorneys." In the carbon copy of the testimony as I afterwards got it I annotated something like that on the margin, intending to have the original record corrected, so as to conform with this stipulation that existed between me and Mr. Murphy. I had forgotten writing anything on the margin until I saw a copy of that record in Mr. Ballinger's office a few days ago, since I have been here in the city, and they turned over the leaves and pointed out that thing to me where I had written that in lead pencil on the left-hand margin of the record.

Mr. BRANDEIS. Have you that copy here? If you have, please produce it.

Mr. FINNEY. It is only an uncertified copy which I think is in the department.

Mr. BRANDEIS. Is not that the copy which Mr. Battle brought from the United States attorney's office at Seattle?

Mr. FINNEY. That is my understanding of it.

Mr. BRANDEIS. And has it not been in your possession for about a fortnight? Mr. Battle can tell us. Has it, Mr. Battle?

Mr. BATTLE. I will be glad to tell you what I know about it.

Mr. BRANDEIS. I wish you would.

Mr. BATTLE. Just as I was leaving Seattle to attend this hearing I noticed in the papers that Mr. Glavis had previously said something about the Wilson coal case, and I knew nothing about the status of the matter at that time, but upon inquiry ascertained that depositions had been taken in the case, and upon further inquiry from the United States district attorney, Mr. Todd, at Seattle, that he had an office copy of the deposition or testimony. I asked him if he had any objection to my seeing a copy of that testimony, and he said: "None whatsoever." He sent it to my office. I furthermore took up with him over the telephone the question of my being permitted to bring that on to Washington with me, and he said I was at perfect liberty to do so and could have his office copy. It is here. I brought it at the time I came, a little over two weeks ago. It is a mere office copy. It is not a certified copy and is not the original.

Mr. BRANDEIS. It is the copy that has in it the pencil memorandum that Mr. Hoyt has just referred to?

Mr. BATTLE. Yes, sir. I read it on my way here. I had no familiarity with it up to this time.

Mr. JAMES. Is this your handwriting on this copy?

Mr. HOYT. Yes, sir. It is my handwriting on the left-hand margin of the copy.

Mr. BRANDEIS. I would like to have that produced.

Mr. VETREES. Certainly, we will try to have it.

Mr. BRANDEIS. Now, who was it called your attention to it and asked if it was in your handwriting?

Mr. HOYT. Mr. Oscar Lawler, Assistant Attorney-General for the Interior Department.

The CHAIRMAN. Are you through with the witness?

Mr. BRANDEIS. No, sir. Do you recall, in connection with the taking of the preliminary statement of Mr. Watson Allen, going to the office of Mr. Ballinger in an effort to get the original agreement or a copy of it?

Mr. HOYT. Yes, sir. We made great effort to get the agreement.

The CHAIRMAN. Do you mean the escrow agreement?

Mr. HOYT. Yes, sir; the escrow agreement that Mr. Watson Allen had told us of at that rather informal interview at the office. We went to Mr. Ballinger's office and I got hold of his partner, Mr. Ronald, and I told him about this thing and told him there must be somewhere in his office; that is, in the office of the firm, a copy of some kind of an escrow agreement which would be very valuable to the Government in the trial of this case, and he made a search and later informed me that they could not find it, but that it might be among Mr. Ballinger's private documents or at least his part of the documents in the office somewhere, or it might be in the safe. Then we went so far as to ask him—there was, I think, some stenographer who either was then in his employment or had been at that time when this thing occurred—anyway a woman stenographer would be the one who probably had taken the dictation, if there was an escrow agreement. We found her and got her to get together all those numerous stenographer's notebooks which she had used along in the period covering those times and go through them to see if we could find the original dictation, but we never found them. Then afterwards when Mr. Ballinger came out to Seattle I asked him about it. My recollection is that Mr. P. C. Sullivan, the United States attorney, and I went together and asked him about it, although I will not be sure whether Mr. Sullivan went with me or not. Anyway, we asked Mr. Ballinger if he knew where that escrow agreement was—if he knew anything about it. I think he said he would look for it. And then he told us afterwards he was unable to find anything.

Mr. VETREES. In inquiring, first, Mr. Hoyt, as to the Watson Allen case, if I have understood you correctly, when the evidence was being taken it was at your suggestion that Mr. Ballinger's name be omitted from the record.

Mr. HOYT. Yes, sir; it was entirely at my suggestion.

Mr. VETREES. That instead of using the firm name you would just say our attorney?

Mr. HOYT. Yes, sir; wherever it occurred that Judge Ballinger said so and so, we would say our attorney said so and so.

Mr. VETREES. You suggested the propriety of that to Mr. Murphy, counsel for your adversaries?

Mr. HOYT. Yes, sir.

Mr. VETREES. And he concurred in that view?

Mr. HOYT. Entirely.

Mr. VETREES. And so you understood it was to be done?

Mr. HOYT. Yes, sir; and also supposed it had been done.

Mr. VERTREES. You supposed it had been done, and made some sort of a memorandum on this office copy?

Mr. HOYT. Yes, sir; I can guess at that. I put that memorandum there as a direction to the stenographer in finally writing up the testimony.

Mr. VERTREES. Still it was written up when you made it, was it not?

Mr. HOYT. It was written up. There were quite a good many mistakes in it which had to be corrected, and I was going through it to make the corrections.

Mr. VERTREES. As I understood you, since coming here recently to attend these hearings, Mr. Lawler, who is counsel for the Assistant Attorney-General, and who is adviser to the land office——

Mr. HOYT. He is Assistant Attorney-General for the Department of the Interior.

Mr. VERTREES. Assistant Attorney-General for the Department of the Interior presented these names to you and called your attention to this memorandum and asked you what it meant.

Mr. HOYT. Yes, sir.

Mr. VERTREES. And you told him?

Mr. HOYT. I told him as near as I could recollect.

Mr. VERTREES. Substantially what it meant.

Mr. HOYT. Yes, sir.

Mr. VERTREES. None was ever made in the original, was there?

Mr. HOYT. I do not know; I never did know. I do not know where that original record is now.

Mr. VERTREES. As I understand you, you labored under the impression that Mr. Murphy would see that the understanding was carried out?

Mr. HOYT. No, sir. You mean after the stenographer's notes had been written up and the testimony recorded that way? No, sir; I do not think I looked to him to have that thing done any more than I would look to myself to have it done.

Mr. VERTREES. But so far as you know there was no change in the original record?

Mr. HOYT. No, sir; except that it was my intention to get it done, and I supposed it would be done.

Mr. VERTREES. You never looked to see if it had been done?

Mr. HOYT. I probably forget all about it from that time on.

Mr. VERTREES. You recall that Mr. Ballinger's name—that is, that this transaction took place at his office and that he was the attorney who was drawing the papers—was stated a number of times throughout the record, was it not?

Mr. HOYT. Yes, sir; it was also stated, in a way, in the testimony of P. C. Richardson, I think.

Mr. VERTREES. Now, when you came to take this evidence you thought it important to inquire whether or not in addition to the deeds which had been drawn up, and other papers at the time—the deeds conveying the two Wilson shares or claims—that it was important to look up and see if there was not an agreement of some sort covering the other four that had never been entered, did you not?

Mr. HOYT. I will tell you that it was quite a little while ago, and my recollection is not very sharp about it. My impression at this

time is that the escrow agreement which I have been talking about here was one which included the two claims which had passed to patent, and some more claims which——

The CHAIRMAN. Which had been entered, not passed to patent?

Mr. HOYT. Oh, they had been passed to patent, those claims had. Two patents had been passed, and the suit afterwards was to cancel them.

Senator ROOT. Those are what Mr. Vertrees has referred to as the Wilson claims?

Mr. HOYT. Yes, sir; the two patented claims, and the agreement, whatever it was, included also five unpatented claims pending at that time in the Land Department, and the agreement was that with respect to the Wilson land he was to put certain cash and notes in escrow on his part, and that the other parties were to put in escrow those two deeds and a declaration of trust or other evidence of intention or agreement and assign the other claims when patented. That is my recollection of the agreement.

Senator ROOT. Who were the parties to that agreement, Mr. Hoyt?

Mr. HOYT. I think that the parties were——

Senator ROOT. You say you think. Do you mean that you were informed? Did you have any official information relative to the matter?

Mr. HOYT. I could not tell you. I knew then, but I do not know now for sure. I think, however, that the testimony will show—that the testimony in the Wilson coal case will undoubtedly show that perfectly clear.

The CHAIRMAN. Were those other four claims unpatented; were they claims that had gone to entry—you know what I mean by that?

Mr. HOYT. Yes, sir; I know what you mean.

The CHAIRMAN. Or were they unpatented claims?

Mr. HOYT. I do not think they had gone to entry. I would not be sure. I think the testimony will show that, too.

Mr. VERTREES. Is it true that when you came to take the evidence in the case you endeavored to bring out all the facts in the evidence that you were taking—that is, in the depositions of the witnesses—as far as you could with reference to those matters?

Mr. HOYT. Everything material; yes, sir; of course.

Mr. VERTREES. And it is your impression, is it not, now that the records ought and would show with reference to those matters what the facts were, or at least what the witnesses stated them to be?

Mr. HOYT. Yes, sir; if that agreement was one which I deemed material at the time to prove the exact state of, of course I did that.

Senator SUTHERLAND. I just want to understand. Did you ever get the agreements at all?

Mr. HOYT. No, sir; I think that all I ever did know about the agreements was Watson Allen's testimony about it, and the testimony of other parties.

Senator SUTHERLAND. There was other testimony, was there?

Mr. HOYT. It is all cloudy in my mind now. The facts have gone out of my mind.

Senator SUTHERLAND. At any rate, the agreement itself never was produced in evidence.

Mr. HOYT. No, sir; we failed to find the agreement.

Senator SUTHERLAND. You never did get the agreement?

Mr. HOYT. I never did find it.

Senator SUTHERLAND. Was there testimony given as to the contents of the escrow agreement?

Mr. HOYT. I am pretty positive that Watson Allen testified as to the substance of that agreement.

Senator SUTHERLAND. And that would appear in his testimony?

Mr. HOYT. I think so; yes, sir. I have not read that testimony.

Mr. VERTREES. Is it not true also that the two Wilson women testified to the agreement—that is, that there was no escrow agreement such as you had been looking for?

Mr. HOYT. I do not remember about that.

Mr. VERTREES. The record will speak as to that.

Mr. HOYT. Yes, sir; the record is the best evidence.

Mr. VERTREES. You have never seen the agreement at all?

Mr. HOYT. No, sir.

Mr. VERTREES. You were unable to find it?

Mr. HOYT. Yes, sir; I wasn't; we wanted to have it.

Mr. VERTREES. And, I understand, you went to the office of Mr. Ballinger's firm and made inquiry?

Mr. HOYT. Yes, sir.

Mr. VERTREES. Search was made for it, was it not?

Mr. HOYT. I suppose so; yes, sir.

Mr. VERTREES. And they sent to get the stenographer who was in the office at the time when the deeds were drawn up at that date, to have her go through the notebook and see whether there was anything to be found there indicating that there had been such an agreement?

Mr. HOYT. Yes, sir.

Mr. VERTREES. Do you remember the lady's name?

Mr. HOYT. No, sir.

Mr. VERTREES. Did you see her?

Mr. HOYT. Yes, sir; I talked to her.

Mr. VERTREES. She reported to you that she had found nothing of that sort?

Mr. HOYT. Yes, sir.

Mr. GRAHAM. When you consulted Mr. Ballinger and tried to get the agreement from him, and talked with him about it, did he at any time deny the fact that there was such an agreement?

Mr. HOYT. No, sir; I think he had forgotten all about it—I mean by that that it had gone out of his mind. It was a little bit of a thing and of no importance.

Mr. VERTREES. You stated in substance awhile ago that he searched for it and reported to you that he was unable to find it.

Mr. HOYT. Yes, sir.

Mr. VERTREES. How long a time did this search cover?

Mr. HOYT. I do not know; I have no idea.

Mr. VERTREES. Was it just a casual matter—an hour or so—or did it cover a period of days?

Mr. HOYT. I do not know; I can not recollect. My recollection is that I spoke to him on one occasion about it, and then a certain time elapsed and then I spoke to him again about it, and he said he had searched and had not been able to find it.

Mr. VERTREES. Was that before or after the stenographer was brought up?

Mr. HOYT. I think it was quite a long time after the stenographer was brought up. I think that Commissioner Ballinger, as he was then, was out of the city for quite a long period of time after we had made our first effort to find that escrow agreement.

Senator ROOR. When was the agreement supposed to have been made?

Mr. HOYT. I do not remember now, Senator; I would have to guess about it. It would be along about 1903, I guess.

Mr. VERTREES. Was it not 1902?

Mr. HOYT. Perhaps; it was quite a long time ago.

Mr. VERTREES. It was supposed to have been at the time the two deeds were drawn up from the Wilson women to Watson Allen?

Mr. HOYT. Yes, sir; about that time.

Mr. VERTREES. And those deeds were left in escrow at Mr. Ballinger's firm's office?

Mr. HOYT. Yes, sir.

Mr. VERTREES. And the idea was that there was some sort of an agreement left there at the time covering, not only those two patented pieces of land that those women conveyed, but also those other pieces that had not yet been patented or entered, to see if there was such an agreement as that?

Mr. HOYT. My recollection about it is that the money or notes from Watson Allen to the coal people, the Wilsons, was not to pass, as I recollect it, unless they did perfect the patents on the other claims. That is my recollection; I may be wrong about it.

Mr. VERTREES. The Wilson people were the two girls who were selling or conveying, were they not?

Mr. HOYT. I think that R. A. Wilson, their father, was doing this on their behalf—on behalf of those other coal claimants, as I recollect it.

Mr. VERTREES. Do you not wish us to understand this, that when you approached Mr. Ballinger on the subject that it was to look and see whether there was any agreement at all or not, as well as to see if he could find it?

Mr. HOYT. Well, no; that is not my recollection of it.

Mr. VERTREES. I thought you stated a while ago that he seemed to have forgotten all about it, and did not know whether there was any or not, and said he would look to see?

Mr. HOYT. I do not believe he said that, but the truth is that all I recollect of that is that he would look and see, and he would give it to me if he could find it.

Mr. VERTREES. And he did report that he could find nothing?

Mr. HOYT. He reported that he could find nothing.

Mr. VERTREES. And the stenographer was called in—she was not in his service—to look over the old notes to see if there was a dictation—

Mr. HOYT. How is that?

Mr. VERTREES. A stenographer who was there at the time the deeds were executed—and at this time was not in the service of the firm—was found and brought in to examine the old stenographer's notes?

Mr. HOYT. I said something about that. I do not know whether she was then out of the employment or not. But some stenographer, who was supposed to be or who was in the employment of the firm,

and who would be the one who probably would have written that escrow agreement—if there was one—was asked, and did look through her notebooks, but was unable to locate it.

Senator ROOT. Who asked her?

Mr. HOYT. I think I asked her myself, with the consent of the firm. We got them. We did it through Mr. Ronald. I think he found this woman; I do not remember whether she was working there or not, but he found this woman and got her to look up the whole matter and gave us every assistance he could.

Senator PURCELL. Who handed you this skeleton memorandum upon which you made your notes?

Mr. HOYT. It was the stenographer's transcript of the testimony before the referee, and that would come to me every day that he took the testimony. Bowman, I think, was the name of the reporting firm there. They made an original and about three or four carbon copies, and I would get my copy and Murphy would get his copy, and we would each know what corrections we wanted to have made in the testimony from day to day, and then send it back to the stenographer.

Senator PURCELL. Did you put your initials on it?

Mr. HOYT. I do not think I put any initials on it; I just simply noted that there were a great many inaccuracies that we wanted to keep out of the record, and we would simply make those corrections, and a messenger, or somebody, would take it back to Mr. Bowman, saying these are the suggestions about changes.

Senator PURCELL. After it was handed to you you turned it back, did you, after you made your corrections?

Mr. HOYT. Yes, sir; that is, that was our regular custom.

Mr. VERTREES. As I understand it was Mr. Lawler who brought it to your attention here recently and asked you what it meant.

Mr. HOYT. Yes, sir.

Mr. VERTREES. And you did labor under the impression, at least, when you took the evidence, that, by virtue of the agreement between you and Mr. Murphy, what you had suggested would be acted on, and the record would be made to read that way?

Mr. HOYT. Yes, sir.

Mr. VERTREES. But an examination of the record since has disclosed to you that it was not done that way, has it not?

Mr. HOYT. The copy of the record shows that it was not done in that; I do not know whether it was done in the original or not.

Mr. VERTREES. It was not done in the copy. I hand you a paper which is Exhibit B to the evidence of Mr. Glavis, on page 705 of the record of Mr. Glavis's evidence, and I will ask you to examine that and state whether or not that is the statement by your direction, whether or not according to your recollection it is a paper that ever was in your possession, and whether or not it is a memorandum of the statement of Watson Allen.

Mr. HOYT. If I may, I would like to look at that and read it to myself. I would like to glance over it.

Mr. VERTREES. While he is reading that, Mr. Chairman, I would like to request now that it be printed in the record. It is Exhibit B, referred to on page 705. It is a statement taken out there.

Senator PURCELL. Watson Allen's statement?

Mr. VERTREES. Watson Allen's statement. It was introduced on yesterday and is already in evidence, but was not printed.

The CHAIRMAN. If there is no objection, it will go into the record now.

Mr. VERTREES. That was the order. The pencil marks on it are mine.

Senator ROOT. I would suggest, Mr. Chairman, that on a number of occasions the stenographer has omitted to put into the record papers that are admitted in evidence. There is no use offering them in evidence unless they appear in the record.

The CHAIRMAN. I did not understand yesterday that this was put in evidence. It was simply marked Exhibit B. It goes in evidence now.

Mr. BRANDEIS. I think, in this instance, Mr. Chairman, there is no blame attaching to the stenographer.

Senator ROOT. You are quite right, Mr. Brandeis. I see it is marked as an exhibit, and the context shows that it was for identification only. It is offered in evidence now. It will go into the record now, as I understand.

(The paper marked "Exhibit B—Feb. 18, 1910—H" is as follows:)

EXHIBIT B.—FEBRUARY 18, 1910.—H.

UNITED STATES ATTORNEY'S OFFICE,
Seattle, Wash., March 30, 1907.

Interview of Watson Allen, New York Block, Seattle, Wash., by Special Assistant United States Attorney Henry M. Hoyt, at United States attorney's office at 5 p. m.

Q. You are one of the officers of the Wilson Coal Company?—A. Not now. I told Mr. Wilson I could not do anything for him. I am not going to put any money into it at all. Well, he says, you are familiar with organizing, etc., and can help in getting this thing started. I said all right. I will.

Q. How long did you remain a director?—A. Six months—not to exceed a year—I do not remember.

Q. You were a member of the board of trustees when they acquired these coal properties, weren't you?—A. I think they had them all taken over before they called on me.

Q. You were one of the original incorporators. You were a part of the corporation as soon as the corporation was in existence?—A. Maybe I was.

Q. Did you not take part at the meeting of the board in which it was resolved to take over this property?—A. I may have. I don't remember. It was pretty well under way when they asked me in. I was very busy, and always have been, so I can't remember about that. I had an option on the property for perhaps two years, and went over there and examined it for them. They made over the deeds to two of the claims. They could not deliver the rest, so I threw it up. I told them I would not bother with just two claims. I can't handle the property unless I have the rest of the claims. There was to be six originally.

Q. Who negotiated with you when you got your option—the elder Mr. Wilson, R. L. Wilson?—A. Yes, sir.

Q. This was some time prior to the organizing of the Wilson Coal Company—about what date?—A. I can't hardly give a guess. May have been eight years ago. I can't tell just how long.

Q. Have you any memorandum or anything that will enable you to tell?—A. Yes, I can; by going to the books and looking up certain things I can tell pretty near.

Q. You be careful to preserve those books, Mr. Allen, as we will have to ask you about those things.

Q. What other members of the outfit talked to you about that property?—A. Never had anything to do with them, other than Wilson, until I was called on to organize the Wilson Coal Company. That was after I turned back the deeds.

Q. You got the two deeds from Helen Pack Wilson and Minn. Marie Wilson?—A. Yes.

Q. Did Mr. Wilson bring you those deeds?—A. I think they came and signed the deeds in the office. The girls came to the office.

Did you talk to them about it?—A. They simply came and made the deeds.

Q. Whom did you pay the money to?—A. I don't remember about that. The deeds were left in escrow, I think with Ballinger, Ronald & Co. I have attorneys there, and I can't remember now whether it was Ronalds or Ballinger; one of the firm or one of the outfit. The papers were all made out at their office and signed up. I think I was going east the next day.

Q. Did you pay them this amount of money, \$6,400, for each deed?—A. I gave them notes and put them in escrow. I am not certain now which one of the firm it was left with in escrow.

Q. It was left with Judge Ballinger, I think?—A. Perhaps; I can't remember.

Q. They laid there for something over a year?—A. Perhaps that was it. I have not thought of it since.

Q. Whom did you make the contract with?—A. I don't remember now. The contract was made with the girls, so far as they were concerned—was signed up—and I don't think I have a copy of the contract.

Q. The escrow holders would have a copy of the contract, would they not? Would Mr. Ballinger know anything about it?—A. Don't know.

Q. They are your attorneys, aren't they?—A. Yes.

Q. Would you mind calling them up and see if they could find that escrow agreement?—A. Yes.

Q. (Phone, by Mr. Allen.) Do you remember anything about making out an escrow agreement with R. A. Wilson and his daughters for some coal and timber lands over in Lewis County?—A. (By Mr. Ronald.) Yes; seven or eight years ago—not less than six or seven.

By Mr. HOTT:

Q. Haven't you any recollection as to the option? Of course, you did not get the option for nothing. I suppose you paid them some money. Did you pay them a substantial sum or just a nominal sum, the idea being to the future operations than what you were paying for?—A. I don't remember whether there was anything except what Wilson had owed me. Wilson borrowed some money from me and I am holding his note yet. It was supposed to be credited to him. Wilson and I were practically friends. I would do anything to help him. That was honest and square and open and aboveboard.

Q. This option you had included the two deeds which Helen Pack Wilson and Minn Marie Wilson left with you and the other Wilson filings?—A. Six claims was what I was to have.

Q. About 960 acres?—A. Yes; between eight and nine hundred. I went to Philadelphia and saw the people who owned the other tract. It would take about \$10,000 and would be a fine piece of property to handle. I was not after coal. It was the timber that was worth the money and was what I figured on.

Q. Do you know the other members of the board? Do you know Kilpatrick?—A. Yes.

Q. Who was George M. Gilson?—A. He is dead.

Q. Who was Wilkins?—A. I think Wilkins has an office up in the Alaska Building. I saw a man up there a month ago whom I took to be him.

Q. This H. P. Wilson mentioned is Helen Pack Wilson. She was a member of the board, was she?—A. Yes. Secretary, I think.

Q. You understood, did you, at the time that these properties were in process to be proved up on?—A. Yes, sir. The understanding was that there were some contests or something; that was, they could not deliver the goods. When I first spoke to Mr. Wilson about taking an option on the property I knew nothing about there being any contest and supposed he would deliver right over, but it finally developed there were contests; they had not been proved up on and I began to get tired; could not wait. Might not be settled in my lifetime.

Q. This was all under negotiation a considerable time before you got the deeds?—A. Yes, sir.

Q. And you understood that they could not make any conveyance until they got title out of the land office for the other portion?—A. Yes, sir.

Q. Did these girls have title when you commenced to negotiate?—A. I don't know about that. I think they had. I am quite well satisfied, because it was some time before I knew there was any question about any of the title. I think it was about seven years ago, because I had let Wilson have money to go east with.

Q. Of course, H. P. Wilson's claim was patented June 27, 1903. I will tell you that for your information, so as to clear things up a little. That is the date of the patent.

By Mr. ALLEN to Mr. HOTT:

Q. When did they pay for it?—A. F. C., March 4, 1902. Deed to you was dated August 29, 1902.

By Mr. HOYT:

Q. Can you remember how long you had been in negotiation with them before that?—A. No.

Q. Did you understand they had money enough to pay for them all?—A. I don't know anything about it.

Q. Don't you know about Wilson's affairs enough to know that he could not? There were other parties furnished the money at the land office. Did they talk to you about Mr. Richardson being interested?—A. I think there was a man by the name of Richardson into the deal.

Q. Did you know anything about the Sterling Coal Company?—A. No.

Q. Just knew there were certain people interested in with them?—A. Yes. A man by the name of Richardson is interested in the Sterling Coal Company.

Q. Minn Marie Wilson's property was the SW. $\frac{1}{4}$ sec. 10, and the other one was the NW. $\frac{1}{4}$ sec. 10—Helen Pack Wilson's. She never got a patent. When she gave you her deed she had no patent?—A. I never knew anything about that.

Q. It is still in controversy?—A. They represented to me the two claims were all clear.

Q. Did they try to find any abstract?—A. I was not making final payment because it was in question about the balance of claims and not down to the abstract.

Q. Didn't you know, Mr. Allen, on October 10, 1904, when you got up the Wilson Coal Company that Richardson and the Sterling Coal Company were suing these people to carry out their contract?—A. I knew there was litigation going on.

Q. You did not know the character of it at all?—A. No; don't remember I did.

Q. You knew Richardson was putting up some of the money?—A. They talked about it. They told me a man by the name of Richardson was interested with them.

Q. Do you remember who told you that?—A. I presume it must have been R. A. Wilson, as he was the only one I treated with until the deeds were turned over.

Q. At what time?—A. I think it was before. I can not give dates.

Q. You think you can look at your books and find out when you first got into negotiations about this land? Don't you know from certain entries in your books?—A. I think I destroyed all the contracts and writing. I supposed it was all off, and I don't believe I have got anything that will show.

Q. The Wilson Coal Company was not organized until October 10, 1904, and the Sterling Coal Company suit against R. Wilson and all the rest of the people was started in the United States circuit court as early as September 15, 1903. Didn't Mr. Wilson, when representing to you about Richardson being interested with him, tell you the nature of what Richardson's interest was?—A. He may have told me. I don't remember. I know there was a Richardson interested with him and he must have told me.

Q. Just before this Wilson Coal Company was started, how much did you know about the trouble between the Wilsons and Richardson?—A. I knew there was litigation. Didn't know its origin or anything. I knew it was something about the property.

Q. Are you a stockholder?—A. I have one share, which they give me to act as an officer.

Examination by LOUIS R. GLAVIS:

Q. Wasn't that their object in forming their company?—A. I know nothing about that at all. I gave those deeds back and got my notes back, and demanded it to come to that. I would not stand it any longer.

Mr. BRANDEIS. Mr. Finney, will it not be possible to send for that copy of the record which Mr. Battle has brought here?

Mr. GRAHAM. I would like to see it.

Mr. HOYT. I would like to see it, gentlemen, because it was bound so tightly on the margin that I could not see all the pencil marks, and I would like to have it brought here so that I can examine it.

Mr. VERTREES. I was about to make this suggestion. We have been making efforts to get the original, but I understood Mr. Hoyt to say that in point of fact no alterations were made.

Mr. BRANDEIS. He has not said any such thing.

Mr. HOYT. I said I assumed it had been done.

Senator ROOT. Do you not think that before you discuss it we had better get it here?

The CHAIRMAN. It has been sent for.

Mr. VERTREES. I was simply making the suggestion to substitute our copy for it.

The CHAIRMAN. It was sent for last night.

Mr. HOYT. I will not read the rest of this. Yes, sir; that is the statement.

Mr. VERTREES. Is there anything in that statement which shows that there was such an agreement as that, of the character that we have been discussing in the questions and answers?

Mr. HOYT. Yes, sir.

The CHAIRMAN. Will you allow me to make a suggestion, Mr. Vertrees? The clerk calls my attention to the fact that that mark on it, "Exhibit B," was a mark put on it in the department, and in order to have our record complete, it should go in as Exhibit H. We have already exhibits and testimony up to that letter. It should now go into the record as Exhibit H.

Senator PURCELL. What is Exhibit B in our record?

Mr. VERTREES. If you will look on page 705 you will see how it came to be marked "B." The chairman may have said "I think we have Exhibit A, and you may call them Exhibit B."

The CHAIRMAN. Exhibit B is a telegram from Mr. Shaw to Mr. Glavis. We have exhibits down to the letter H already in evidence, and in order to follow the regular order this, now, when it is offered in evidence, should go in as Exhibit H.

Senator ROOT. Mr. Chairman, it has already been described and testified about as Exhibit B. Had we not better let it alone? There would be two Exhibits B. This was in yesterday's proceedings. If we put the date February 18 opposite, that will distinguish it.

The CHAIRMAN. It will be marked "Exhibit B, February 18." The stenographer will put it in as Exhibit H, but referred to yesterday as Exhibit B, on page 705 of the testimony. That will make it clear.

Mr. VERTREES. Mr. Hoyt, please refer to the exhibit and specify those parts of it which you understand state that there was an agreement covering unentered claims at the time that the deeds from the Wilson women were drawn up and left in escrow with Judge Ballinger.

Mr. HOYT. On page 1, Mr. Allen says:

I had an option on the property for perhaps two years, and went over there and examined it for them. They made over the deeds to two of the claims. They could not deliver the rest, so I threw it up. I told them that I would not bother with just two claims. I can't handle the property unless I have the rest of the claims. There was to be six originally.

On page 4 there—shall I call it Exhibit H?

The CHAIRMAN. Yes; you had better call it Exhibit H.

Mr. HOYT. On page 4 of Exhibit H:

Q. This option you had included the two deeds Helen Pack Wilson and Minn Marie Wilson left with you and the other Wilson for filing?—A. Six claims were what I was to have.

Q. About 960 acres?—A. Yes, between 800 and 900. I went to Philadelphia and saw the people who own the other tract. It would take about ten thousand and would be a fine piece of property to handle. I was not after coal. It was the timber that was worth the money and was what I figured on.

And further down on the same page—

Q. You understood, did you, at the time that these properties were in process to be proved up on?—A. Yes, sir. The understanding was that there was some contest or something; that was, they could not deliver the goods. When I first spoke to Mr.

Wilson about taking an option on the property I knew nothing about there being any contest and supposed he would deliver right over, but it finally developed there was a contest; they had not been proved upon and I began to get tired; could not wait; might not be settled in my lifetime.

That is all the answer I need make.

Mr. VERTREES. You do not remember what the witness stated in his deposition with respect to taking deeds, do you?

Mr. HOYT. No, sir; I have not read that for a very long time.

Mr. VERTREES. Well, they will be presently, I suppose. Is it not true that Mr. Ballinger made no suggestion to you as to the manner of stipulation of omitting his name.

Mr. HOYT. Mr. Ballinger knew nothing about it, so far as I knew, or ever at any time.

Mr. VERTREES. Now you have stated that you had the idea at the time of that conversation with Mr. Glavis, or rather his conversation with you when he related his views as to the interpretation which Mr. Pierce had put on the act of 1908—that the Cunningham claims covered practically all the Alaska claims?

Mr. HOYT. I did not mean that Mr. Glavis had that idea; I meant that I in a general way did not distinguish between the Cunningham claims and the others, and I was very much surprised afterwards to learn that there were only thirty-three in the Cunningham group.

Mr. VERTREES. So at this time, when you were concerned in the manner in which you were, you labored under the impression that those Cunningham claims covered the whole field, or practically the whole field up there, worth a thousand million dollars?

Mr. HOYT. No, sir; not exactly that. I had a sort of idea though that the Cunningham group was in a way related to other groups. I knew that was an incorrect idea, but that was the idea I had.

Mr. VERTREES. You mean all these other groups—the other groups of entries in the region?

Mr. HOYT. Groups of claims.

Mr. VERTREES. And you later found that that was erroneous, and was surprised to find that it was so?

Mr. HOYT. Yes, sir; somewhat.

Mr. VERTREES. And when it was represented to you that the property involved was worth a thousand million dollars, you do not mean to be understood as saying that you thought the Cunningham group itself was worth that much?

Mr. HOYT. Oh, no, sir.

Mr. VERTREES. I believe you stated that you had two conversations back there in May with Mr. Glavis, and in the last one he stated to you his gratification at the situation; that he had an interview with Mr. Ballinger and that matters were all right?

Mr. HOYT. Yes, sir.

Mr. VERTREES. He stated to you that Mr. Ballinger had shown him a letter from Governor Moore with reference to the matter, and that Mr. Ballinger was incensed and indignant?

Mr. HOYT. Yes, sir.

Mr. VERTREES. He showed that letter to Mr. Glavis, did he not?

Mr. HOYT. He showed it to Mr. Glavis and told Mr. Glavis that he had shown it to the President.

Mr. VERTREES. And that the conversation which you have related took place between him and the President on the subject?

Mr. HOYT. That is what he told me; yes, sir.

Mr. VERTREES. Do you remember how long that was after your first interview?

Mr. HOYT. Do you mean the interview preceding my going to the Attorney-General?

Mr. VERTREES. Yes.

Mr. HOYT. I recollect that it was about between two and three days, because I was very much excited about this myself, and so was he, and I remember that part of it quite distinctly.

Mr. VERTREES. Did he state to you in that conversation what part of the letter it was of Governor Moore's that incensed Mr. Ballinger?

Mr. HOYT. I do not think he claimed to know. I have just stated in my testimony all that I recollect that he told me about the contents of that letter which he had seen that day.

Mr. VERTREES. Will you please repeat that part of the contents which he repeated to you, or the substance of it?

Mr. HOYT. It was something in the letter to the effect—Moore's letter to Ballinger—to the effect that "we supposed when you became Secretary of the Interior we would have no further trouble about these claims."

Mr. VERTREES. I here show you a letter of May 22, 1909, written by Governor Moore to Mr. Ballinger, which appears on page 197, and call your attention to the third paragraph thereof and ask you to read that and see whether or not that recalls to your mind the part that was offensive. Please read it out, Mr. Hoyt.

Mr. HOYT. The part that you have marked there with a lead pencil?

Mr. VERTREES. With a lead pencil, yes.

Mr. JAMES. What page is that on?

Mr. HOYT. This is a letter from Mr. R. A. Ballinger to Miles C. Moore.

Mr. VERTREES. Then I have marked the wrong letter, if that is true. [After examining the letter.] You are in error about that, Mr. Hoyt. That seems to be a letter from Mr. Moore to Mr. Ballinger, at the bottom of the page.

Mr. HOYT (reading):

Your reasons for turning this matter over to your assistants are appreciated, but we had all felt when you were named to the position of Secretary, with your full and complete knowledge, and your sense of justice, that our long-delayed patents would be forthcoming.

That must have been the sentence. All that I have heard was what I have testified about.

Mr. VERTREES. Did I correctly gather this idea, Mr. Hoyt, that when Mr. Glavis came to you and made the suggestion of having the Attorney-General take it up, it was with a view of protecting Mr. Ballinger?

Mr. HOYT. I think you misunderstood me, Mr. Vertrees. I do not think I have testified that it was Mr. Glavis's suggestion to go to the Attorney-General.

Mr. VERTREES. You stated, did you not, that he had a conversation with Mr. Ballinger in which he suggested that he might subject himself to criticism if he assumed to have anything to do with it?

Mr. HOYT. Yes, sir.

Mr. VERTREES. And let it be as it would, in view of his previous connection with the claims, that he would be subjected to criticism?

Mr. HOYT. Yes, sir.

Mr. VERTREES. That he himself had suggested that to Mr. Ballinger?

Mr. HOYT. Yes, sir.

Mr. VERTREES. And it was with the view of protecting Mr. Ballinger against any such criticism as that that he had felt concerned and consulted you about it, as to what to do?

Mr. HOYT. He included that amongst the reasons why he thought the matter must be attended to; he gave that as one of his reasons.

Mr. VERTREES. He made no suggestion of any kind against the bona fides of Mr. Ballinger in that conversation, did he, when he stated that he went to him to suggest it to protect him?

Mr. HOYT. Read the question.

(The stenographer read the question as follows:)

He made no suggestion of any kind against the bona fides of Mr. Ballinger, in that conversation, did he, when he stated that he went to him to suggest it to protect him?

Mr. VERTREES. Advising Mr. Ballinger as to what would be proper to protect him?

Mr. HOYT. No, sir; not as I understand your question.

Mr. VERTREES. I believe that is all. You do not wish to leave the room, Mr. Hoyt, do you?

Mr. HOYT. I wish to go and attend the House Committee on Insular Affairs.

Mr. VERTREES. I was going to ask you to wait, Mr. Hoyt. That record will probably come up and then we could probably dispose of you in a few minutes. That is all the questions we have to ask.

Mr. BRANDEIS. I will defer any question I may have until that record comes.

(The witness was thereupon excused.)

Mr. BRANDEIS. I desire, Mr. Chairman, now to introduce from among the documents furnished by the Interior Department the daily reports required to be made by the special agents, certain daily reports, and, in the first instance, certain reports made by H. K. Love, covering the following days: July 22, 1907—

Senator ROOT. Mr. Brandeis, is that a specific paper; one particular paper which—

The CHAIRMAN. Is it an original paper?

Mr. BRANDEIS. This is the original report furnished by the Secretary of the Interior in answer to a call.

Senator ROOT. Is it here?

Mr. BRANDEIS. I have it here in my hand.

Senator ROOT. Then I suggest, Mr. Chairman, that each paper be taken by itself and passed upon. We will get into confusion otherwise.

The CHAIRMAN. Yes.

Senator ROOT. Allow the committee to pass on that paper, on that particular paper.

Mr. BRANDEIS. Of this particular paper I wish to read certain portions of what, in this instance, is a separate paper; that is, Mr. Love makes a report covering the whole month of July, 1907, the report being, however, for each day, and in other reports, which I will furnish later, the report is a separate report for each day, instead of being a single report for the month divided into the number of days, the practice having changed in the course of the time which we are discussing. This is the first paper.

Senator ROOT. Have that paper marked an exhibit, and you read from it whatever you desire.

Mr. BRANDEIS. That is what I want to do.

(The paper referred to was marked Exhibit I.)

Mr. BRANDEIS. The amount to be copied is not very voluminous.

The CHAIRMAN. Do you want anything more than what you read?

Mr. BRANDEIS. I shall read all that is required in this; in other instances I will put it in the record.

Mr. VERTREES. Would there be any objection to you designating it by some pencil marks?

Senator ROOT. The stenographer will do that.

Mr. BRANDEIS. These are all designated by dates. It is the month of July, 1907. The committee will remember the letter of Mr. Dennett to Mr. Jones, of June 21, 1907, committed this investigation to H. T. Jones, and that it was testified that Jones went to Alaska, and then returned about the 20th of July.

The CHAIRMAN. Whose report is this?

Mr. BRANDEIS. This is Love's report, who joined Jones at that time.

The CHAIRMAN. And the date of it is what?

Mr. BRANDEIS. Well, it is for the month of July, divided into days.

The CHAIRMAN. What is the date of the report? There must be a date on it.

Mr. BRANDEIS. The last date of it—it is dated July, 1907; it is not specifically dated as a report, but it must have been rendered not earlier than the 31st of July.

Senator ROOT. What is the file mark?

Mr. BRANDEIS. It is described as "Report of work and expenses, July, 1907. H. K. Love, Special Agent, G. L. O."

Senator ROOT. Hasn't it any file mark?

Mr. BRANDEIS. The jacket is marked. No; it is not. It also has merely a description; apparently it bears no file mark. Other papers do, but this July report does not.

The CHAIRMAN. Go on and read what you want to read from it.

Mr. BRANDEIS (reading):

July 22: With Special Agent Jones, conferred with the honorable Commissioner General Land Office on subject of coal-land locations in Alaska and general conditions. By verbal order of the honorable commissioner, instructed to remain for present in Seattle to assist Special Agent Jones.

July 23: Assisting Special Agent Jones, General Land Office, in securing addresses of coal-land applicants, Alaska.

July 24: As above, 23d instant. Further conference with the honorable commissioner. Letter to General Land Office in re coal entry, Ignatius Mullen.

July 25: Securing addresses as above.

July 26: Securing addresses as above. Search for one S. R. Blonger, coal claimant, and for men employed by Great Northern Railway Company said to be locators of coal in Matanuska Valley, Alaska-Watson group. Street-car fare, etc.

July 27: Further conference with the honorable Commissioner General Land Office. Interviewed J. R. Young, Seattle, coal locator, Katalla, and secured his sworn statement regarding his lease to T. P. McDonald, and status of coal-land claimants for whom he is agent. Interviewed Chas. E. Shepard, of Shepard & Flett, attorneys, Seattle, attorney for T. P. McDonald, lessee of J. R. Young, coal claimant.

July 28: Sunday.

July 29: Interviewed W. V. Rinehart, Seattle, secretary, Alaska Anthracite Coal Company, and locator of a coal claim, Katalla, Alaska, on status of company and of his claim.

Seeking Harry White, Los Angeles, Cal., transient in Seattle, and a locator of coal lands in Alaska, to inquire into methods pursued.

By direction of the honorable Commissioner General Land Office, taking over Seattle end of investigation of coal matters from Special Agent Jones.

July 30: Called at office, Watson Allen, Seattle, to interview him on subject of relations with Anglo-American Oil and Coal Company and its coal interests at Katalla; Allen being absent, sick, interviewed his secretary, and was referred to Geo. H. Hill, secretary Guarantee and Trust Company, Portland, Oreg.

Interviewed Harry White, coal-land locator, Alaska, and organizer of Alaska Anthracite Coal Company, and secured his sworn statement regarding company and his coal interests in Alaska.

July 31—

Mr. BRANDEIS (talking). I would like to have read in the evidence, but do not want to read it now.

The next is August 1; the August report of H. K. Love.

August 1—

Senator ROOT. Mr. Brandeis, I think you had better read what you want in. We are sitting here to hear this evidence.

Mr. GRAHAM. You mean, Senator, that he go back?

Senator ROOT. Yes; go back to July 31.

Mr. GRAHAM. I agree with the Senator about that, and I think he ought to do it.

Mr. BRANDEIS. Very well. These are the names of some coal claimants which I thought perhaps would not be carried as we went along, and you might want to refer to them [reading]:

July 31: Interviewed M. A. Green, agent for some seventy coal-land claimants, Katalla, and secured correct addresses of all such, and other information.

Called at business address of R. S. Cox, jr., of Haller & Cox; referred to residence he being sick. Called at office address of Walter S. Fulton, attorney, coal claimant Munday group; Fulton absent.

Called at residence per directory, 1008 Washington street, of J. D. Gardner (Munday group), coal claimant; found he had moved to West Seattle; address unknown Street car fare, etc.

The CHAIRMAN. Do you consider that stuff material to the case?

Mr. BRANDEIS. I think it will appear—some of it I consider very material, Mr. Chairman. It shows that on four days I have mentioned on the 21st, 22d—

The CHAIRMAN. You need not argue the case.

Mr. BRANDEIS. I think it very material, as showing that they had verbal interviews with the commissioner at that time.

The CHAIRMAN. Go ahead with your testimony.

Mr. BRANDEIS. August 1—

The CHAIRMAN. What report is that?

Mr. BRANDEIS. This is Love's report for the month of August from which certain dates are to be read. I suppose that it ought to be marked by the stenographer.

(The paper was marked "Exhibit J.")

Mr. BRANDEIS (reading):

August 1: Interviewed with Clarence Cunningham, agent for 32 coal-land entrymen Katalla, Alaska, and secured verbal statement of recent action taken by those of entry toward organizing a company to take over entered land. Letter to R and R, Juneau Alaska, reporting substance of above interview and inclosing supplemental affidavit in re coal-land applications for patent: Warner Neill, Burbage, Major, and Moore.

August 2: Letter to H. T. Jones, special agent, General Land Office, 114 East Third street N, Portland, Oreg., with address of George H. Hill, Portland representative Anglo-American Oil and Coal Company, operating in Kayak district, Alaska, suggesting interview. Called at office of Scott Calhoun, coal claimant, Katalla (Munday group), absent. Letter to General Land Office, reporting recent action toward the promoting of coal company taken by entrymen of Cunningham group.

August 8: Called at 121½ Yester Way and interviewed Frederick Filitz, William Felity, and Andrew N. Snyder, coal claimants, Katalla (W. N. Lethir group), and secured their sworn statements. Interviewed William Devere and George Hartig, at 114 Pike street, after visiting residence of Devere, 11 West Republican street, coal claimants, Katalla (Christopher group); both disclaimed any such holding, but declined to sign statement. In company with Special Agent Jones, Land Office, and C. F. Munday had interview with the honorable Commissioner General Land Office.

August 11: By direction, interview with the honorable Commissioner General Land Office, verbal authority to remain temporarily in Seattle as "long as necessary."

I omitted to read August 10.

August 10: Assistance in reporting in coal matters in Alaska by H. T. Jones, special agent, General Land Office, of same date.

Now I will read the letter from Mr. Glavis of March 23, 1908—

The CHAIRMAN. A letter of Mr. Glavis's?

Mr. BRANDEIS. Mr. Glavis to the commissioner.

The CHAIRMAN. Is that a letter not in the record already?

Mr. BRANDEIS. It is a letter not in the record. You may remember that the Attorney-General referred to the letter of March 14, 1908, in which he asked Mr. Glavis, which is in the record, and he asked Mr. Glavis to make a report in regard to H. K. Love, stating that it does not appear whether or not that report of Mr. Glavis was ever made. I now wish to introduce that report and the accompanying papers as follows.

Senator ROOT. Where is that paper—is this the original paper?

Mr. BRANDEIS. It is a copy.

Senator ROOT. Where is the original paper?

Mr. BRANDEIS. The original paper was not produced by the commissioner.

Senator ROOT. Is there any proof—

Mr. BRANDEIS. Produced by the Secretary. It is furnished in response to a request by the committee upon the Secretary. The original is undoubtedly in the Land Office. Here is a copy furnished by the secretary of the Land Office.

Senator ROOT. You say you have and you offer a paper. We have no proof about it. I am trying to find out what the identification of the paper is.

Mr. BRANDEIS. The identification is the fact that the Secretary of the Interior furnished it as a correct copy of a paper on their files.

Mr. GRAHAM. And by reading it you admit that it is.

Mr. BRANDEIS. I admit that it is.

Senator ROOT. This is a paper that comes from the Secretary of the Interior?

Mr. BRANDEIS. Yes.

SENATOR ROOT. All these are papers which are furnished by the Secretary of the Interior?

Mr. BRANDEIS. Yes; all these papers which are furnished by the Secretary. This is a letter dated March 23, 1908, and is as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Portland, Oreg., March 23, 1908.

COMMISSIONER GENERAL LAND OFFICE,
Washington, D. C.

SIR: In compliance with your letter "P," H. H. S., dated March 14, 1908, I have the honor to transmit herewith the affidavit made by Special Agent Horace Tillard Jones in reference to certain conversations which he had with Special Agent H. K. Love last summer during their joint investigation of the Alaska coal cases. Except-

ing what I have stated in my letter of January 22, 1908, I have no other information relative to Mr. Love's official conduct, with the exception that during my recent investigation of the Alaska coal cases I was informed by Mr. Clarence Cunningham, of Seattle, Wash., that Mr. Love was now a candidate for appointment as United States commissioner at some town in Alaska, the name of which I am unable to recall. This would indicate that Mr. Love was evidently anxious to sever his connection with the General Land Office.

Respectfully,

L. R. GLAVIS,
Chief Field Division.

Now follows the affidavit of Mr. Jones [reading]:

STATE OF OREGON, *County of Multnomah*, ss:

Horace Tillard Jones, a citizen of the United States of lawful age, being duly sworn, hereby on oath, deposes:

I am a special agent of the General Land Office, and in June, 1907, was instructed by the honorable Commissioner of the General Land Office to make an exhaustive investigation of certain alleged frauds with reference to coal-land entries in Alaska.

On July 22, 1907, special agent, General Land Office, H. K. Love was given verbal instructions by said honorable commissioner to assist me in said investigation. Mr. Love being the agent assigned to duty in Alaska, it was supposed that he would be of great assistance in the investigation.

I was in Seattle, Wash., with Mr. Love, from July 22, 1907, to July 29, 1907, and during that week and in the early part of same, Mr. Love, in commenting on this case that we had, remarked that he was glad he did not have to investigate the Alaska coal cases, because he had to live up there and he did not desire the enmity of the people, some of those involved being his friends. He mentioned H. R. Harriman in particular as being a friend of his. Mr. Harriman was the representative of the Clark-Davis group of entrymen who were located on Alaska coal lands by one A. B. Hunt as attorney in fact. Mr. Love also said that he would rather I would go to see Ignatius Mullen, the son of the receiver of the Juneau, Alaska, land office, in regard to his coal land, because he had to work right along with Mullen at Juneau at the land office, and it would be very hard and disagreeable if he and Mullen could not get along together, and that if he went after Ignatius Mullen to investigate his entry his father, P. M. Mullen, might think that he had started the investigation of his own accord. He said also that it was a different proposition in Alaska from what it was in the States about making extensive investigations of alleged frauds. That in Alaska one has to eat, sleep, and live with the parties under investigation. That, for instance in going to Katalla, Alaska, one has to stop at the hotel run by the people who are building up Katalla, the Clark-Davis-Lippy crowd, and that if one made himself disagreeable to said crowd he could not go to some other place and get lodgings like he could in the States, but would have to take anything he could get or sleep out of doors. He also said that he was a candidate for the office of United States marshal for the new district of Alaska, if Congress made a new district, and that he did not want to have all the influence in Alaska working against him.

On July 29, 1907, I left Seattle, Wash., and made a trip to Portland, Oreg., and Spokane, Wash., taking affidavits in relation to said Alaska entries. I returned to Seattle, Wash., August 6, 1907. Mr. Love said that he had been to see several of the persons named in the list of Alaska coal entrymen, and that he had conferred with Clarence Cunningham, a locator of some 33 coal entries. On August 10, 1907, in the presence of said Special Agent Love, I made out a formal report to the General Land Office as to the result of my said investigations to date, and I asked Love to sign it with me. He said that he would rather not do that, but he would like to have a copy of my report and of all of the affidavits in the case. I asked the commissioner, R. A. Ballinger, who was at that time in Seattle, Wash., if I should let Love have said report and affidavits, and he said he thought it would be all right. In the meantime on August 2, 1907, Mr. Love made an informal report to the General Land Office clearing, or approving, 26 of said Alaska coal entries, but he did not say a word to me at any time of this action on his part. If he had signed my formal report I would have conflicted with his own report on said entries, and that is probably his reason for refusing to sign same.

Since the date of said report, made by Mr. Love on August 2, 1907, Mr. L. R. Glavis, chief of first field division, and myself have made an investigation of the entries comprised in Love's report, and have gathered sufficient data against said entries to warrant cancellation proceedings.

This is a true and full statement of my knowledge of Mr. Love's actions with respect to the Alaska coal-land cases, and I do not make the same because of any spite or ill feeling that I have toward Mr. Love. We got along very nicely together and without friction of any sort.

HORACE TILLARD JONES.

Subscribed and sworn to before me at Portland, Oreg., this 19th day of March, 1908.

L. R. GLAVIS,
Chief First Field Division.

The CHAIRMAN. Is there any memorandum on that showing when it was received at the General Land Office?

Mr. BRANDEIS. Well, it shows that it accompanied the letter of March 23.

The CHAIRMAN. March 23. Is there anything showing when that was received?

Mr. BRANDEIS. There are no marks on these copies indicating the date of receipt.

Senator ROOT. March 23, 1908?

Mr. BRANDEIS. Yes. The next is a letter from Dennett, commissioner, to H. K. Love, dated Washington, April 1, 1908.

The CHAIRMAN. Let me ask you. Mr. Brandeis, are these papers that are not already in the record?

Mr. BRANDEIS. These are all papers which are not already in the record.

The CHAIRMAN. Very well; go ahead.

Mr. BRANDEIS. I shall not inflict any of the others upon the committee [reading]:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 1, 1908.

Mr. H. K. LOVE,
Special Agent General Land Office,
Juneau, Alaska.

SIR: December 11, 1905, you were directed generally to make a thorough investigation of all coal entries wherein charges have been made against them as being fraudulent, as outlined in your letters to this office of October 6 and 17 and November 1, 1905.

Subsequently, in June, 1907, Special Agent Horace T. Jones was directed to make investigations of Alaska coal entries made by parties in the State of Washington, and on July 22, 1907, you were given verbal instructions by the Commissioner of the General Land Office to assist said Jones in said investigations, as it was supposed you would be of great assistance.

It is reported to this office that while assisting Special Agent Jones and in commenting upon the cases under investigation, you stated to him that you were glad you did not have to investigate said cases because you had to live in Alaska; that you did not desire the enmity of the people, as some of those involved were your friends, particularly mentioning H. R. Harriman, who was a representative of the Clark-Davis group of entrymen who were located on coal lands in Alaska by one A. B. Hunt; further that you requested Mr. Jones to see Ignatius Mullen, the son of the receiver of the local land office at Juneau, in regard to his entry because it would be disagreeable if you made the investigation, as his father might think you had started same of your own accord.

It is also alleged that you justified your position by saying conditions in Alaska were different from those in the States, and an agent must be particular, as he often had to live with persons whom he was investigating, and on the further ground that you were a candidate for United States marshal, if Congress made a new district in Alaska, and desired not to be opposed by all the influences in that Territory.

Later, on August 10, 1907, Special Agent Jones submitted report to this office of the result of his investigations up to that time, which you did not sign, but requested copies of the report and affidavits, which were given you. The records here show that eight days previous to that time you had made an informal report to this office on the Cunningham group of entries (embracing 26 entries), which, in effect, recommended

that they be clear listed for patent, though you never mentioned at any time to Mr. Jones that you had submitted any such report.

This office will be pleased to have you submit an early reply hereto, affirming or denying the statement above set forth, and making such explanation as you may deem necessary.

Very respectfully,

FRED DENNETT, *Commissioner*.

Then there is the letter of Mr. Love to the commissioner dated April 16, 1908.

The CHAIRMAN. Replying to this letter which you have just read!

Mr. BRANDEIS. The one that I have just read, to the commissioner. I think the whole of that letter ought to go into the record for the purpose of reference, but I think it would undoubtedly take up considerable time if I read the whole of it.

The CHAIRMAN. If there is no objection, that letter will go into the record.

Mr. BRANDEIS. I want to read it. It is on pages 12 and 13 of this copy of the letter.

Mr. GRAHAM. Mr. Chairman, unless it is ordered by the chairman of the committee that the whole letter shall not appear in the record I would ask that it be all read now, so that the whole letter will appear in one place consecutively. I ask that the entire letter be read, so that we may get it in the record at one place.

The CHAIRMAN. I understood it would all go into the record. The whole letter goes into the record.

Mr. BRANDEIS. I understand that this passage might be read.

Senator ROOT. Let it go into the record as a whole, and then you can call our attention to the particular part that you desire.

Mr. BRANDEIS. Yes. If that course may be adopted in other cases I think it will be saving the time of the committee.

Mr. VERTREES. I suggest that we are liable to get an erroneous impression from reading only a fragment of the letter, and in reality in the end, so far as the investigation is concerned, when it comes to read the record it will be better to read the whole as we go along.

Mr. BRANDEIS. A large part of this is not relevant to the question I want to submit to the committee.

The CHAIRMAN. Is there any necessity of putting in any more?

Mr. BRANDEIS. I think the rest of it should go in, that there may not be any misconception possible in regard to some other things. This is the particular portion of it which I desire to call your attention to.

Your letter states:

"The records here show that eight days previous to that time (August 10) you had made an informal report to this office on the Cunningham group of entries (embracing 26 entries) which in effect recommended that they be clear listed for patent, though you never mentioned at any time to Mr. Jones that you had submitted any such report."

I beg your pardon; that report did not "clear list" those entries for patent, but, on the contrary, raised a question as to their regularity, although I had previously "clear listed" them. But this is of little importance.

The record shows that at different times between January 17, 1907, and May 7, 1907, I recommended these entries as completed; the last two, months before I ever heard of Jones.

The status of that group was explained to him at our earliest meeting, and by him to Judge Ballinger upon our first visit to him. I furnished Jones a copy of the affidavit I had drafted and used in each instance. It was he that showed it to Judge Ballinger when he pronounced it complete. Jones used this very affidavit in his interview with J. R. Young, of the Young group, as your records will show.

Judge Ballinger, upon one of our calls, had expressed the opinion that the transfer of coal lands to a company after entry, but prior to issuance of patent, invalidated entry.

This was contrary to my recollection of decisions, but I could not be sure and but mildly dissented. There was a rumor to the effect that the entymen of the Cunningham people were taking measures for the organization of a company and transfer to it of their holdings. After we left Judge Ballinger that day, that I spoke to Jones of the view he had taken and of the rumor regarding the Cunningham people and how they would be affected if the Judge's view obtained I have not a reasonable doubt, for it was the custom to discuss, after a visit, leading subjects brought up at such.

Later, on August 1, I met Cunningham in the Rainier Grand Hotel, and inquired if his people were not forming, or had not already formed, a company as above indicated. He said those only that had gone to entry were in the deal, and he gave me a brief outline of the plan. I told him of Judge Ballinger's expression on the subject, and that I intended to advise the General Land Office of his course, so that the entries of his people might be held for cancellation if the department saw fit.

Jones was absent from Seattle for about a week, and his daily report will show that he was so absent on the 1st of August and on the 2d, when I addressed to your office the letter in this matter to which you refer, advising you of the most recent developments in the Cunningham matter, as above.

As stated above, I had already recommended patent, "clear listed" these entries on their merit as being without fault at date of entry. When it developed that acts had occurred subsequent to entry that, by authority higher than I, was condemned as illegal, I reported such, in the letter calling attention to my previous favorable reports, you could then ignore former reports and hold entries for cancellation. I can not imagine what exception you can take in any act of mine in above matter."

(The letter in full is as follows:)

[Reply to Letter "P," 07-60103, JDY., April 1, 1908, Re charges in connection with coal-land investigations in Alaska.]

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Juneau, Alaska, April 16, 1908..

The Honorable COMMISSIONER GENERAL LAND OFFICE,
Washington, D. C.

SIR: I have the honor to reply to your letter of April 1, just received, with regard to my official conduct in connection with Alaska coal-land investigations.

First, I desire to call your attention to the correspondence to which you refer. In my letters of October 6 and 17, 1905, and of November 1, same year, I endeavored to set forth the wisdom of immediate investigation of the bona fides of coal *declaratories* as fast as filed; this for the protection of both the Government and possible innocent purchasers. To quote (letter, Oct. 6):

"I am not acquainted with any procedure for the investigation of the bona fides of a coal declaratory, nor any method by which notice may be served on the public that the department is investigating such.

"Under the Alaska law a year is allowed for filing a declaratory and three more for entry. At entry a protest may be entered and testimony heard; but many filings will be sold prior to entry and after large sums have been paid and witnesses are scattered.

"I would therefore respectfully request that I be instructed on points raised and as to course to pursue, if any, with regard to coal-declaratory filings. If such and entries are to be investigated, I would suggest that the register and receiver be requested to serve on me a copy or memorandum of each filing and notice of proof as made."

And again (letter of Nov. 1):

"I plan to leave Juneau about February 1 and to be absent from five to six months in the interior of Alaska. The intervening time could be largely devoted to investigation of the bona fides of such locations if desirable at this time, and unless it be preferred to await time of entry."

In apparent reply to these clauses, your office instructed me, under date of December 2:

"You will proceed in accordance herewith and whenever it comes to your notice that persons or associations of persons are endeavoring to proceed in what you consider a violation of the law and official regulations you will make written protest to the local officers and furnish them any information you may have as a basis of your protest and request a rejection of the claim in event entry is sought if the facts stated justify such action, or in case of doubt request said officers to suspend the application until the same can be thoroughly investigated. * * *

800 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

"In order that you may have notice of all action taken in regard to the making of entries of public land, of whatever character, the local officers have been instructed, by copy hereof, to furnish you a copy of the notice issued by them of the intention of claimants to make entry at the time of its issuance, which notice you will carefully consider and return to the local officers within the time of the taking of the prod with such indorsement thereon as you are able to make as to the actual status of the case and such recommendation as you may deem proper.

"This is in accordance with the general circular to special agents of this office, dated August 31, 1905, which is now in print, copy of which will be furnished you."

I submit that the foregoing fairly shows that my orders were to practically await attempted entry before giving any special attention to the bona fides of locations; this, though in my letter of October 6, besides as above quoted, I stated that "I am told of sales pending of some of these groups, involving several hundred thousand dollars each."

To emphasize such as my construction of orders, I may state that, after receiving your December letter, I wrote to Mr. Pollock, then chief, urging that action be not delayed till attempted entry in the interest of both Government and possible purchaser. This letter was unofficial; I felt I could not act in it further officially. Mr. Pollock did not reply.

Subsequently, I secured evidence, pro and con, whenever opportunity offered, as to the legality of methods pursued by parties appropriating coal areas. And when the locators known as the "Cunningham group" came up for entry I did all I could considering that practically all were in the States; I drafted an ironclad affidavit which each was required to subscribe to. This affidavit was pronounced by Judge Ballinger to be complete.

I had had numerous interviews with Cunningham and with his friends and enemies about Katalla. Also, and particularly, I had cross-examined the father of Davidson (one of the group) before he knew my business. What he told me convinced me as much as the sworn statements of the many reputable citizens involved as to the regularity of the matter.

The Cunningham claims were the only claims up for entry to October, 1907. Therefore, under my instructions, all was done that was required.

Upon meeting Special Agent Jones, I outlined the course pursued in the matter and the evidence secured therein, and such as affected other groups.

Therefore, I insist that I have, and had at the time of Mr. Jones's assignment, thoroughly and honestly complied with instructions of December 2, 1905, and with all implied in the first paragraph of your letter to which this is a reply.

You say:

"It is reported that while assisting Special Agent Jones and in commenting upon the cases under investigation you stated to him you were glad you did not have to investigate said cases because you had to live in Alaska; that you did not desire the enmity of the people, as some of those involved were your friends, particularly mentioning H. R. Harriman, who was a representative of the Clark-Davis group of entry men, who were located on coal lands in Alaska by one A. B. Hunt."

This is absolutely false, whoever said it, and must have been known to be false by the person saying it. It is silly; so silly that it bears the falsehood of itself inherently. Why should I wish to shirk this part of my duties more than others? I must work, and I want to continue in present place. The coal matters are not more disagreeable than my other duties, nor do they more involve my friends. Dropping the disagreeable, I would soon be out of work.

My Alaska friends are not confined to the coal locators; friends of whom, in the line of duty, I require conforming to the law. Indeed, many of the coal locators I know by sight only; some not so much. And excepting Harriman and not to exceed three others, I do not count any my friend, nor am I concerned in their affairs as such.

Why do I know that I did not state as alleged? Is it not easier to forget a statement than for another to manufacture one and put it into your mouth? On a passing subject, yes. But of a statement that must necessarily be the expression of one's careful consideration thought and upon a subject that most materially concerns oneself, the person will know whether the idea was ever entertained or not, and if not, the expression is scarcely possible and would be remembered. Now, I never once had such a thought. On the contrary, I very keenly felt the assignment given Jones. What man would not? Especially without a word of explanation from the office to me. If he care to remember the truth, he will recall that I said, the last afternoon (when the work was over, and the report was being discussed), that while I had kept still, I felt disappointed at the appearance of lack of satisfaction in my work in Alaska.

(I intended to take the matter up with Judge Ballinger, but his treatment was so courteous and I was having such troubles with a sick wife that I let it pass.)

On May 8, 1907, only two months before this statement is alleged to have been made, I had the honor to address you calling to your attention the shortness of work during the many winter months of Alaska and suggesting that I be ordered to Seattle to assist the work from that point, and saying:

"Furthermore, aside from the settlement for trespassed public timber, the most important item that requires attention is the determining of the bona fides of the many coal claims now on record and of which entry is contemplated. The claimants are in practically every case nonresidents, many living in Seattle, Spokane, and Portland. My principal duty the coming winter will be the investigation of such claimants as may apply for patent, and there are to be a goodly number. This can be better done in Seattle than from Juneau, and might of itself justify spending the winter there. But if can be of service, I would like to help in other fields; to tell truth, I am not altogether satisfied with the service that I am rendering."

It would seem that on May 8, 1907, I was anxious to make such coal investigations as were called for.

I had made a trip from Katalla, Alaska, to Juneau by the steamship *Portland* in fall of 1906. Mr. and Mrs. Harriman were aboard.

In the spring of 1907 I took my wife and little daughter to Victoria, B. C., for sunshine. I returned to Seattle, en route to western Alaska, and met Mr. Harriman. He asked my wife's address, saying that he was going to Victoria, and would call. He did call. Mrs. Love removed to Seattle, not liking Victoria, and when I returned in July, she and Mrs. Harriman had apparently become very warm friends. At least, I know such was the measure of my wife's regard for her. And no one could have been kinder or more helpful than was Mrs. Harriman to my wife, who was in a delicate condition, and in much distress, and amongst strangers.

This was the situation on my return in July. And to-day we count the Harrimans amongst our good and reliable friends, and hope to so continue.

Now, then, when Jones and I were apportioning the work, I suggested that he call on Harriman, giving the especial friendship existing between the families as the reason that made such proper and desirable in the interest of the public service. There was not any particular stress put on it. So little, indeed, that later when he failed, I secured Harriman's statement and, through him, that of Messrs. Lippy and Schram.

I don't profess to be perfect; so far above my kind that no degree of obligation or friendship could possibly warp my views or acts. The best I can do is to try to be fair to all in all, and especially to endeavor to avoid occasions for favoritism where the inducement is exceedingly strong. With this view, I suggested that Jones interview Harriman. Had I desired to protect him in wrongdoing, I would scarcely have adopted such a course. I believed it better to avoid even the appearance of favoritism by having another attend to the matter.

Of course I do "not desire the enmity" of anyone, nor have I a wide reputation as a coward. One of many faults is my taking too positive stands; not the characteristic of one likely to fail in duty because of fear of opinion.

I repeat, then, that anyone with ordinary knowledge and a common regard for the truth that construed anything said on the Harriman subject other than as above and gave it any such expression or meaning as contained in your letter stated that which he knew to be absolutely false.

I might add, Why was I so anxious that Judge Ballinger put me to work on the coal investigations in Seattle if I wanted to cold-foot out of it?

Re, Ignatius Mullen coal matter. It is charged that I "requested Mr. Jones to see Ignatius Mullen, the son of the receiver of the local land office at Juneau, in regard to his entry because it would be disagreeable if you (I) made the investigation, as his father might think you (I) had started same of your (my) own accord."

Mr. Jones stated, in my presence, to Judge Ballinger that Receiver Mullen had told him that he (Mullen) had \$3,500 invested in his son's claim. Such an amount would cover all the claim had cost, and leave nothing for the boy to pay. Mr. Mullen and his son swear that the father did not have a dollar in the claim, and never had had. Who is right? It would be difficult to find the citizen of Juneau that would believe that Mr. Mullen had perjured himself.

I happened to know considerable of the financial condition of young Mullen. I knew he was so circumstanced as to be able to handle the claim; I had very good reason to believe that he had sent one item of \$500 to his father therefor, and undoubtedly others. I had often talked with his father on the legal requirements, including the question of relationship, and had ample reason to believe that he had kept entirely free from entanglements therein. Receiver Mullen is not simple, but shrewd; yet Special Agent Jones comes from Juneau and announces to his superior that Receiver Mullen had made a statement to him that must logically result in the son losing his claim and he his job.

I had some months before recommended entry in this case.

Judge Ballinger, in view of Jones's statement, wired the General Land Office to suspend proceedings for patent and directed me to write to like effect. He directed me (I believe, though it might have been an order to both of us) to inquire into the charge. At any rate, Jones and I talked it over as a common job. (Of course Jones has the advantage of me in these trivial questions; I did not know that a part of his assignment was to inspect my work or methods, to say nothing of keeping tab, apparently on my every expression of opinion.) I possibly suggested that he make the inquiries. I did not have faith in unearthing other than a mare's nest, but the order was sufficient and I could not question Jones's clear statement of an alleged recent assertion by Mullen, sr. In fact, it was not in good taste to seem to combat that which was contrary to my own recent report, and so to seem to be opposing the probe.

If I suggested that he make the inquiries. Jones certainly agreed without objection, and for the sufficiency of the reason given by me, which reason was the fact, as you must know, that I am in close official relations with the land officers—supposed to office with them. Now, I had taken an affidavit from Ignatius that was supposed to cover this, and had often discussed it with Mr. Mullen. The pleasant relations best calculated for results in my official duties might be impaired by apparently doubting all that had passed between father and son and myself. I am almost certain that on speaking of it Jones volunteered to take it up. It appealed to me as of so comparatively little moment that I can not be sure of this. But of this I am sure, absolutely sure, that I did not aim to shirk it on any weak plea of its being personally "disagreeable" to me, in the sense that your letter seems to put it. It was I that finally made the inquiries, and they resulted in a decidedly unpleasant incident; all in the day's work.

I hereby assert, in perfect conscience, that if Jones has made any report intentionally indicating any desire on my part to get out of the Mullen affair because of personal consequences to myself, he knew he contemptibly and meanly falsified.

To further quote from your letter:

"It is also alleged that you justified your position by saying conditions in Alaska were different from those in the States, and an agent must be particular, as he often had to live with the persons whom he was investigating."

I did not say this, or anything that could be so construed by a mind of any fairness. I at no time had anything to explain or "justify" to Jones. Only once have I lived with the person against whom charges were pending; it was not, then, until after the investigation was closed, nor was it absolutely necessary then. This was with Mr. Clark Davis, in Katalla, in July, 1907, and I tried to pay out from under any obligation therefor. Why, then, should I make such an uncalled-for statement to Jones; in fact a statement so gratuitously untruthful? My alleged pleading "conditions in Alaska" and the necessity of being "particular" would seem to mean that I was a poor mean coward, and went out of my way to impress this fact on Jones.

The only conversation along this line was had just after meeting Jones. I invited him and Mr. M. A. Green to join me "in a drink." Jones declined, and I thought I had met a very proper person. But he afterwards explained that he would not be seen drinking with anyone possibly involved in investigations. I had not any fault to find with this, but explained that communities were so small in Alaska, and in boat travel you met so intimately, that it was difficult to not associate on closer terms; that I depended on a different basis. Very likely at some time I may have mentioned having stopped with Clark Davis; have mentioned the fact, and that I was at Katalla for the purpose of inquiries in which he was involved. But never in the cowardly strain attributed! *Never!*

Again quoting, "on the further ground that you were a candidate for United States marshal, if Congress made a new district in Alaska, and desired not to be opposed by all the influences in that Territory."

I deny absolutely that the above contains a scintilla of truth; so unwarranted is it that it is simply mendacious. How utterly contemptible I would be to harbor such an idea, and what a fool to express it! I can not think that my superiors really believe this, and left me here, even in present dismembered condition, one day!

Over two years ago I advised the General Land Office that I was a candidate for marshal. My papers have been on file during all such time. At that time, I asked and secured a few letters from residents of the proposed new district; generally from persons of no real influence, but for local recommendation. *Not a coal locator in the lot, except Commissioner Britton, of Katalla.* Years ago I was his attorney in South Dakota, and on this score I asked it of him, and as a prominent local official.

The truth is, I have not concerned myself to any great extent to secure Alaska influence. Except some kind words from old Iowa acquaintances and the assistance of a dear army friend, I have depended almost solely on such good will as the President

might see fit to entertain for me. I have never had any doubt but that it would be sufficient, did I do my part. If any one of these charges is true, I have failed, and the President would be justified in despising me; for every one involves the harboring of a low ideal.

I have plenty of faults, but Jones has not reported on them!

Judge D. A. McKenzie, when a railway builder, offered his support, and still does. He is now supposed to have coal interests at Katalla. I do not recall any other assistance from any coal locators. I have reported on the Cunningham group only, and favorably. That group represents, by far, more wealth and possible influence than any other; possibly more than all others combined, except the Munday people. I have never mentioned the marshalship to either Cunningham or Munday, or to any of their people, nor has anyone on my behalf. And yet I am sold and delivered to "the influences!"

The truth is, I have met the men of Alaska like men, and have been treated like one. I do not believe there is one that has not a wholesome respect for me and my methods, and yet faith in the square deal. I have done the best I could do to enforce the inefficient laws that apply to Alaska; this without fear or favor. I challenge inquiry of the high and the humble and along the secret ways as to my official or private life in Alaska.

Again quoting from your letter:

"Later, on August 10, 1907, Special Agent Jones submitted report to this office of the result of his investigations up to that time, which you did not sign but requested copies of the report and affidavits, which were given you."

Does Jones say I requested copies of the report and affidavits? And what does he intend to infer, if so? That I wanted these for any improper purpose? To me it is almost unbelievable that he could say this. The truth is so plain and simple, and from all that passed between us then could not be forgotten or misunderstood. We were in the Land Office, about to close up matters with a report. He himself suggested the question, how it should be drawn and signed. It was then that I spoke of how apparently he had superseded me, and of my feeling in the matter; that, aside from this, I was merely in capacity of assistant, and could not think of presuming to sign the report. And I insist I did exactly right. Later, when I secured the sworn statement of Doughten and affidavits of Lippy, Schram, and Sauers, I sent them to him for transmittal to your office.

Except as above stated, what possible reason could I have had for not wishing to sign the report?

As for the copies, it was he himself proposed that each should have one. If he deny this, he is simply beyond me, and must have a mind so low and crafty as to not be able to see anything open in another. It is not likely that I asked him to make copies for me of all those matters. But if he had not proposed carbon copies and of his workmanship, I certainly would have made copies of all for my files. You must be aware that that is required to be done.

"And the mighty mountain labored."

Your letter states:

"The records here show that eight days previous to that time (August 10) you had made an informal report to this office on the Cunningham group of entries (embracing 26 entries), which in effect recommended that they be clear listed for patent, though you never mentioned at any time to Mr. Jones that you had submitted any such report."

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they would be affected if the Judge's view obtained. I have not a reasonable doubt; for it was the custom to discuss, after a visit, leading subjects brought up at such.

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I do not wish to do Mr. Jones an injustice. May I respectfully suggest the possibility that his report, in the way it comes to me, may be given a cast not intended by him. There is, too, a chance that I do not read your letter aright. May I not, therefore, have a copy entire of his report and of any other charge, verbal or in writing, lodged against my private or official conduct?

On January 4, 1908, Mr. L. R. Glavis, chief of division, Portland, wrote me as follows:

"I have to advise you that I have been placed in charge of investigation of all matters relating to Alaska coal lands and the commissioner has advised me that you will perform such services in regard to such cases as I may direct, reporting to me in the premises. Until further advised, you will please take no action in said cases, and upon receipt of this letter kindly furnish me with all the data you have secured and any information which you may have knowledge of relating to the same."

You will permit me to say, I was greatly surprised to receive such information and such an order from other than the office direct. My first impulse was to ignore it and refuse to give up my records on such authority or lack of authority, until could hear from the office, with reasons of this apparent discrediting of me. But I thought to take up these phases of the matter upon an occasion I then expected would occur in a few days, but did not. In meantime, I complied with orders.

I have given honest and, I believe, fairly intelligent and efficient service. I believe I am entitled to fair and courteous treatment. I do not mean that on a second thought you would extend other than this to me, but I must protest that as yet I have not been fairly dealt with in this matter.

Later, Receiver Mullen made a trip to Seattle and, on return, asked me: "Who is this Glavis?" "Why," I asked. He said "I heard he was in charge of 'Alaska.' That he would make a trip of inspection through this summer. That he found lots at Katalla supposed to be yours, but that Clark Davis said, while they belonged to an official, he was not authorized to say to whom."

Is it right that I be placed in such a position? March 15, 1908, I addressed through you a letter to the honorable Secretary of the Interior, inclosing a communication received from Mr. Goodrich, one whose good opinion I prize next only to that of the President himself, and to whom I am bound in honor to be a true man. This letter spoke of charges lodged against me, and I inquired of the Secretary what these were and asked investigation, thorough and at once. This letter must have been received by April 1, the date of your letter to which I am now replying; possibly the result of it. I beg that you aid in a definite conclusion being arrived at as early as possible, and I shall hope to be advised thereof by his honor the Secretary.

Very respectfully,

H. K. LOVE,
Special Agent, General Land Office.

Mr. VERTREES. I was going to suggest to stop here and take up Mr. Hoyt. Would it be admissible now to interrupt the reading of these documents and continue the examination of Mr. Hoyt?

The CHAIRMAN. I think so. There will be no objection, I presume, Mr. Brandeis?

Mr. BRANDEIS. None whatever.

The CHAIRMAN. I would say to Mr. Brandeis that these records have just been sent up to the committee from the Interior Department.

Mr. BRANDEIS. Yes.

Mr. VERTREES. Would it be admissible for us to consider these, or, rather, to allow us to put in evidence such parts of them as we desire, with the understanding that when the originals arrive if they are incorrect in any way they can be corrected to conform to the original?

The CHAIRMAN. The originals can be put in afterwards.

Mr. VERTREES. We only wanted to put in parts of certain depositions.

The CHAIRMAN. Have you any objection to that, Mr. Brandeis?

Mr. BRANDEIS. I have no objection. They are all subject to correction later when we get the original records.

Mr. VERTREES. We have a telegram that the originals are on the way by express.

The CHAIRMAN. Very well, there is no objection, Mr. Vertrees.

Mr. VERTREES. No.

HENRY M. HOYT THEN RESUMED THE STAND FOR FURTHER EXAMINATION.

Mr. VERTREES. You are here shown a document purporting to be a transcript of the record in the case known as the Wilson case, which has just been sent up from Mr. Lawler's office. Do you recognize this document?

Mr. HOYT. Yes, sir; it is the record of the Wilson cases, two cases consolidated for trial.

Mr. VERTREES. What is the exact title of them?

Mr. HOYT (reading):

United States of America, complainant, versus Watson Allen and Jane Doe Allen, his wife, Helen Pack Wilson, Sterling Coal Company, a corporation, and Wilson Coal Company, a corporation, defendants.

That is No. 1072 in equity.

No. 1073, United States of America, complainant, versus Watson Allen and Jane Doe Allen, his wife, Minn Marie Wilson, Virgil R. Wilson and Malvina Benton Wilson, his wife, Helen Pack Wilson, Wilson Coal Company, a corporation, Sterling Coal Company, a corporation, and Medardo Garcia and Charles McGinni, copartners doing business as Garcia & McGinni, defendants.

Both of them are in equity.

Mr. VERTREES. The record consists of two volumes, does it not?

Mr. HOYT. Yes sir; these two volumes.

Mr. VERTREES. You say it is a copy of the record?

Mr. HOYT. This was an office copy for the United States attorney's office.

Mr. VERTREES. And is the one you had in your possession originally when you were district attorney?

Mr. HOYT. Yes, sir.

Mr. VERTREES. Is it or is it not that on which you made the memorandum to which you say Mr. Lawler called your attention, and recently asked for an explanation of?

Mr. HOYT. Yes, sir.

Mr. VERTREES. Now, refer to that memorandum and read it to the committee and tell us what it means.

Mr. HOYT. (Examining) I find in the examination in chief of one of the witnesses, P. C. Richardson, at page 143 of the record, on the left-hand margin opposite lines 18, 19, 20, etc., the pencil memorandum in my handwriting, which I will not be able to read unless I have permission to cut the binding of the book, so as to open it a little wider.

Mr. VERTREES. I think that should be allowed.

The CHAIRMAN. Is there any objection to it? [After a pause.] There is no objection.

Whereupon,

Mr. Finney cut the binding of the book as requested.

Mr. HOYT. There is still a little bit of the page missing, evidently the work of the binder, but it reads:

Stipulated it may read our attorney and mention no name.

That is opposite the sentence which reads:

After the papers in the suit were filed by our firm of Ballinger, Ronald, and Battle, Battle informed us that he had discovered that these same lands had been deeded by the Wilson girls, Minn Marie and Helen Pack Wilson, to Watson Allen, and that the deeds had been executed in their office—in the office of Ballinger, Ronald & Battle—and had been in the safe of the company for a number of months, and that since the papers were served on the parties in interest in the Sterling Coal Company suit one of the girls came to the office and secured the deeds from the safe.

That is the memorandum which I testified to.

The CHAIRMAN. What was the date on those deeds, or approximately, as near as you can give—1903, I understood awhile ago.

Mr. HOYT. It says in the beginning of that paragraph—in September, 1903, the directors of the Sterling Coal Company authorized the bringing of that suit. Now, the deeds were some time a little prior to that, probably.

Mr. BRANDEIS. Are not the copies of the deeds in the record?

Mr. HOYT. I do not think the deeds were ever transcribed into the record, but simply the originals were introduced in evidence.

The CHAIRMAN. It was prior to that date that you have just read?

Mr. HOYT. Yes, sir; as I understand it.

Senator ROOT. The pleadings are there, I suppose. When you say record there, you do not mean record in a technical sense? It is the stenographer's minutes.

Mr. HOYT. It is the record of the testimony taken before the referee in chancery.

Senator FLETCHER. How would it read with the change as stipulated?

Mr. HOYT. That is indicated in another person's handwriting just over the words, and it would read like this: "After the papers in the suit were filed by our attorneys, one of them informed us that he had discovered," etc.

Senator ROOT. Are the pleadings in that case here? Does anybody know whether the pleadings in that case are here and available?

Mr. VERTREES. So far as I know this transcript of the record is all that is here. I presume the original record will be here in a day or two.

The CHAIRMAN. The clerk has been subpoenaed to bring all the records.

Mr. VERTREES. Have you examined the record sufficient to say that the name of Mr. Ballinger, as the attorney who did these things, appears more than once in this record?

Mr. HOYT. I have had pointed out to me in the record at certain pages where Mr. Ballinger's name appears repeatedly with a lead pencil underscore under it.

Mr. VERTREES. The underscore, I suppose, was for the purpose of calling your attention to it?

Mr. HOYT. I do not know; either that or I may have underscored them myself, having in mind this stipulation.

Mr. VERTREES. How many times does it appear as attorney?

Mr. HOYT. I did not read it, but the name "Mr. Ballinger"—"Judge Ballinger," I should say—occurs fifteen or twenty times.

Mr. JAMES. Was the underscore for the purpose of taking his name out in these original places where the minutes were made?

Mr. HOYT. I would have to guess at that. I believe so, but it may have been underscored afterwards by some other person for some other purpose; I do not know.

Mr. JAMES. You have no recollection about it?

Mr. HOYT. No, sir.

Senator PURCELL. Who suggested the idea of doing that as you now recollect?

Mr. HOYT. To make this stipulation?

Senator PURCELL. Yes.

Mr. HOYT. It was my suggestion to Mr. Murphy, the attorney.

Mr. VERTREES. Was Mr. Glavis present?

Mr. HOYT. I do not think he was present at the time the stipulation was made, but I think I told Mr. Glavis I was going to do that. I think I did.

Mr. VERTREES. I wish now in this connection, Mr. Chairman, to present the record, but only put into the record proper, as part of it, the depositions of the three witnesses that were interested, taken in this case; that is, Mr. Watson Allen and the two Wilson women. I wish to put them in for the purpose of showing that they testified in the case that there was no escrow agreement of any kind.

Mr. BRANDEIS. You have no objections to adding the P. C. Richardson deposition to that?

Mr. VERTREES. No, sir; none at all.

The CHAIRMAN. If there is no objection, that course will be taken. Please name the depositions again.

Mr. GRAHAM. Those are not depositions, as I understand it. They are actual testimony, question and answer.

The CHAIRMAN. He will understand what I mean.

Mr. VERTREES. They were taken before a master in chancery. I presume when the record comes it will show exactly what it is.

The CHAIRMAN. The testimony of these witnesses?

Mr. VERTREES. The testimony of Watson Allen, P. C. Richardson, and Helen Pack Wilson. There is another, Minn Marie Wilson. There are four, that is all. We will have copies of these made to be filed.

Mr. GRAHAM. Does that include Mr. Richardson's name?

Mr. VERTREES. Yes, sir. It is quite voluminous, and I do not think it is necessary to print all that, except those parts of the depositions that counsel stipulate may be printed in the record.

The CHAIRMAN. You do not want any more than what refers to the escrow agreement?

Mr. VERTREES. No, sir; I do not myself.

Mr. BRANDEIS. I have not had an opportunity of examining the record. There may be more, and I will let you know.

Senator ROOT. It will be satisfactory to let counsel stipulate.

Mr. VERTREES. We will stipulate as to what parts we desire printed.

The CHAIRMAN. Then that course will be taken. Have copies made and submit them to the stenographer.

Senator ROOT. I do not think we should quite like to leave it in that way, that counsel stipulate what should be entered in the record. I prefer that after counsel shall select parts they desire that they shall hereafter indicate that to the committee.

Mr. BRANDEIS. That will be agreeable to me.

Mr. VERTREES. I did not mean, Senator, to dictate. I merely wanted to escape the voluminous printing of it all, subject, of course, to the direction of the committee.

Mr. HOYT. Is that all?

The CHAIRMAN. Is that all you want with Mr. Hoyt?

Mr. VERTREES. Yes, sir.

The CHAIRMAN. Is that all, Mr. Brandeis?

Mr. BRANDEIS. Yes, sir.

The CHAIRMAN. You can consider yourself discharged as a witness.

Senator ROOT. But retained as attorney-general of Porto Rico. (Laughter.)

Mr. GRAHAM. Mr. Chairman, unless there is something very short it is scarcely worth while taking up any new feature. It is almost adjourning time for lunch.

The CHAIRMAN. We were rather dilatory in beginning and I think we ought to have a few minutes to make up for the loss of time. I think we will continue for about fifteen minutes longer.

Mr. BRANDEIS. Mr. Chairman, you will recall, by reference to pages 32 to 35, that when I referred to the memorandum of the receipt, indicating the receipt by Commissioner Ballinger of the letter of November 12, 1907, in which Mr. Glavis called attention to what young Davis had said, that Mr. Ballinger said he should not make any statement, that you expressed a doubt as to there being any evidence that that letter was called to Mr. Ballinger's attention, and I stated that the other matter contained in the letter had been acted upon by Mr. Ballinger, and that I would make a call for the paper in order to present legal evidence of the correctness of the statement which appeared in the exhibits annexed to Mr. Glavis's letter to the President. I have now that letter which I then referred to, or rather a carbon copy of the letter.

The CHAIRMAN. Give the date of it.

Mr. BRANDEIS. Letter of December 12, 1907.

The CHAIRMAN. Of Glavis?

Mr. BRANDEIS. It is the letter of Commissioner Ballinger, signed by him personally, to Glavis—

The CHAIRMAN. Go on and read it.

Mr. BRANDEIS. In which he acknowledges receipt of that letter and acts upon it. I wish to introduce that letter of December 12, 1907, acting upon the soldier's additional application, which was the other subject-matter.

The CHAIRMAN. Do you desire to read it?

Mr. BRANDEIS. I do not think it is necessary. It is merely to prove beyond peradventure that the letter of November 12, 1907, reporting

that statement of Davis as to what Commissioner Ballinger had advised him, had actually reached Commissioner Ballinger.

Senator Root. Mr. Brandeis won't you state what is the authentication of the letter you put in.

Mr. BRANDEIS. It is the press copy on the tissue of the Department of the Interior, General Land Office, Washington, D. C.

Senator Root. Is that a paper which comes from the General Land Office?

Mr. BRANDEIS. Yes, sir; all of these papers are papers, unless I say something to the contrary, furnished by the Secretary of the Interior in response to the call which we made.

The CHAIRMAN. Very well; the paper will go into the record.

The letter referred to is as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 12, 1907.

[Dismissing protests and approving entry for patenting.]

Mr. LOUIS R. GLAVIS,
Chief Field Division, Portland, Oreg.

SIR: February 20, 1906, Clark Davis applied to enter, under section 2306, Revised Statutes, the land embraced in United States survey No. 147, as assignee of George Bell, by the location of a certificate of right issued to Bell July 26, 1882, and recertified July 6, 1895, to Thomas B. Walker, Davis's assignor. Publication of notice was duly had and final certificate No. 69 issued December 27, 1906.

Said tract was surveyed by United States Deputy Surveyor C. S. Hubbell from May 16 to May 21, 1904, and was approved by the United States surveyor-general for Alaska, January 5, 1906. Said tract is situated on White's Slough and Katalla River, near Katalla Bay, and contains 34.68 acres.

In letter to this office, dated May 2, 1907, A. S. Bailey, of Katalla, Alaska, alleged that survey No. 147 is commonly known as the "townsite of Katalla;" that since the original survey was made the boundaries of the homestead have been extended by parties other than the mineral surveyor; that the survey and plat do not show a cemetery and several buildings which were on the tract at the date of survey; that the application for title was not advertised on the ground, as required by law, and he asked that patent be withheld pending investigation.

By letter "P," of June 6, 1907, Special Agent H. K. Love was directed to investigate the charges.

August 19, 1907, said agent submitted a report, together with affidavits of said Bailey, Torger Asbjornson, and Entryman Davis. Clark Davis swears that he is the president and general manager of the Alaska Petroleum and Coal Company, organized in October, 1902; that the local headquarters of the company is at Katalla; that since its organization the company has been prospecting for oil and minerals in the vicinity and has been the main support of the few people in and around Katalla; that the town site now embraced in survey No. 147 was held by one Mike Duval by virtue of oil locations; that an unofficial survey of the oil claims had been made for Duval; that the land was never prospected for oil and was declared by experts to be non-mineral; that, as the tract was a desirable site for a community that would facilitate the company's work, affiant purchased of Duval, in 1903, all his rights in said tract; that the land was surveyed into lots and offered for sale to settlers, deeds to be made when patent was obtained for the land; that the field notes and maps show every improvement on the land at date of the official survey; that said survey No. 147 does not contain quite all the land embraced in the Duval oil locations; that affiant owns a building across from the post-office, which he uses as the office of said company; that he posted notice of application for title on the front of said building; that on account of the stormy weather he afterwards took the notice into the hallway of the building and posted it on his office door; that there were only about 20 people in Katalla at that time, all of whom knew of the application and many of whom were prospective lot owners; that Bailey was once in his employ, but was dismissed for cause.

Bailey swore that the "original survey" of his complaint was the Duval survey; that he helped make the original survey; that survey No. 147 has been extended at "the back part" to include a part of "I claim," and that Angus McCrea would so

testify; that Davis posted notice of his application in the hall of his private residence and "that no one knew anything about it for some time, unless he called their attention to it, which he did once or twice." As to the charge that the official survey did not show certain improvements, Bailey said, "I think you will have to cut all that out." He also stated that "it looks to me" that Davis drew in his beach lines "in order to give himself the benefit of tide lands;" that all water-front claimants were affected; that affiant would not be adversely affected if patent issued, but that Torger Feed, who now calls himself Torger Asbjornson, would be so affected.

Torger Asbjornson swore that he was not adversely affected and that he desired that patent issue in the case. Mr. McCrea assured the agent that he knew nothing irregular in the survey or any reason why patent should not issue. The agent stated that the lower floor of the Davis house is used by him as the office of said company and that Bailey informed him, the agent, that he intended to harass Davis to the extent of his power.

September 4, 1907, Bailey wrote this office that the report of the special agent was biased in favor of Davis; that the agent was the guest of Davis while at Katalla, and he asked that another agent be sent to make the investigation.

July 21, 1907, J. T. Hamilton, of Katalla, wrote this office that one M. J. Powers had a prior right to a part of said town site, and that "As to the facts herein contained, you will make reference to W. H. Taft, as to me, to Lloyd, of Cincinnati, Ohio, who are personal friends and have been of S. S. Glidden, who was interested at Spokane, Wash. I own and control, by reason of my partner aforesaid, an interest in this property. See that it is attended to by contest."

In letter to this office dated September 16, 1907, he states: "I will send a communication to General Distin to check up on your inquiry with reference to the surveyor-general. As to my further communication to W. H. Taft and Lloyd, of Cincinnati, Taft, I notice by the papers, is just returning."

It is not clear from Hamilton's letters what he desires in the matter. Nothing further has been received from or for him. He has never disclosed what particular interest he has in the land, or the basis of his claim.

September 19, 1907, M. W. Bruner, of Katalla, Alaska, filed in this office, through resident counsel, his protest against the entry, charging that said survey includes land below mean high tide; that the plat and field notes omit certain improvements on the ground at the date of survey; that notice of application for title was not posted in a conspicuous place on the ground, and that the public was not aware that such an application had been made; that the improvements claimed by Davis consist of the office of the Alaska Petroleum and Coal Company, of which he is manager; that said company has, during four years, advertised that it was the owner of the town site of Katalla, and offered and sold lots within the survey; that Special Agent Love, or his wife, owns one or more lots; that the water of Katalla Slough, abutting on said survey, is navigable during high tide for vessels of 50 tons; that a portion of this land is submerged at high tide; that William Carless, a lot owner, who has constructed a wharf out into deep water, has been warned by Davis to remove same, and that others who have constructed buildings on piles below mean high tide, along the water front, have been so warned. Bruner does not claim to be adversely affected, but asks investigation for the reason that he believes the entry "to be illegal, made for speculative purposes, and in violation of law." He asked that investigation be made.

September 26, 1907, P. J. Erussard filed in this office, through resident counsel, his protest against the entry, stating that he was adversely affected, but he subsequently withdrew his protest.

By letter "P" of September 30, 1907, Special Agent H. T. Higby was directed to investigate the case, but he has advised the office that the season has so far advanced that investigation on the ground can not be had before spring.

November 12, 1907, you reported that you proceeded to Seattle, Wash., October 29, 1907, and secured the affidavits of Charles D. Davis, son of entryman, and of W. D. Rogers and Walter M. French, inclosed. Mr. Davis swore that neither Agent Love nor any member of his family owns property in Katalla, and that no agreement or arrangement has been made to transfer any property there to them; that each and every improvement on the tract at the date of survey is shown in the field notes. W. P. Rogers swore that he is a United States deputy surveyor, under bond; that he personally retraced the meander lines of said survey No. 147; that the meander line established by the United States surveyor is, in his judgment, the true meander line as near as same can be established; that the said meander line as therein established is as near the line of mean high tide as could be accurately determined, which is the boundary of a survey on navigable waters, and as near as a surveyor could establish it.

The agent is of the opinion that the charges can not be sustained.

The office finds that part of the charges made are immaterial: that no valid material showing was made against the entry by Bailey, even on the face of his own affidavit;

that Bailey and Bruner are not adversely affected; that none of the parties "along the water front," vaguely alluded to by said protestants as being adversely affected, have made any complaint or protest to this office; that Hamilton has made no specific statement or showing that he would be adversely affected should patent issue to Davis. Said survey has been shown to be regular, accurate, and sufficient, and it has been shown that Davis made sufficient compliance with the law in the matter of the entry.

As said protestants are not before this office as adverse claimants to the land, they are not entitled, in view of the showing made by said special agent, to any further consideration which would tend to delay issuance of patent to entryman. Said protests are, therefore, hereby dismissed and the entry approved for patenting. You will close the case on your records.

Very respectfully,

R. A. BALLINGER, *Commissioner.*

Mr. BRANDEIS. This is dated December 12, 1907. Mr. Glavis stated, on page 39 of the testimony, that Mr. Jones had made another report on these Alaska cases in November, as he recalls it, in the beginning of November, 1907, of which no reference was made in the summary or generally in the document 248. I wish now to introduce that report, or a copy of the report, and the letter furnished by the General Land Office.

The CHAIRMAN. Do you desire to read it?

Mr. BRANDEIS. Yes, sir; to read the letter. It will not be necessary to read the accompanying report, although it ought to go into the record.

The CHAIRMAN. Give the date of it.

Mr. BRANDEIS. Portland, Oreg., November 5, 1907.

The letter is as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Portland, Oreg., November 5, 1907.

COMMISSIONER GENERAL LAND OFFICE,
Washington, D. C.

SIR: I have the honor to transmit herewith a letter of Special Agent Jones in reference to coal-land frauds in Alaska. My general knowledge of conditions governing the coal entries made in Alaska prompts me to concur in Mr. Jones's recommendation that early and thorough investigation be made of these entries.

In view of the fact that the coal-land laws are a separate and distinct study apart from other land laws, and owing to my experience in conducting the investigation against the Portland Coal and Coke Company, the Wilson Coal Company, and others (having practically handled all coal-land investigations on the Pacific coast), I respectfully ask that the Alaska coal-land cases be assigned to me for investigation. From an economic point of view it would also be advisable, since most of the persons involved reside in Portland and other cities near by.

Very respectfully,

L. R. GLAVIS,
Chief Field Division.

The report of Special Agent Jones is dated November 1, 1907, and reads as follows:

EXHIBIT L.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Portland, Oreg., November 1, 1907.

HONORABLE COMMISSIONER GENERAL LAND OFFICE,
Washington, D. C.

(Through L. R. Glavis, Chief of Field Division No. 1.)

SIR: One George H. Hill, of Portland, Oreg., one of the officers of the Anglo-American Coal and Coke Company, a company which is exploiting coal and oil lands in Alaska, asked me to-day what action, if any, would be taken in relation to the holdings of his said company in Alaska. He said that they had sold stock in the said company, but that the said stock valuation was based upon the oil lands only held by the said company in Alaska; that the probability of the coal lands figuring in

the assets of said company was contingent upon the question whether or not a company could hold more than four coal claims; that if it was decided that they could not hold more than four claims it was the intention of the officers of said company to let the other claims, about ten or twelve in number, pass back to the Government.

Hill, however, states that one Judge Brown, of Seattle, Wash., who was the legal adviser of their said company, had stated that the law was silent upon the subject as to how many claims a corporation could hold, and Brown gave it as his personal opinion that if it came to a show down there would be found to be no authority of law for withholding the right of a corporation to file upon, in the name of individuals, as many claims as they might feel able to work upon.

As there is a likelihood that many persons will be influenced to invest in different companies which are at present, and will be in the future, formed to exploit these Alaska coal fields, I am taking the liberty of again calling to your attention the fact that during my recent investigation of the Alaska coal land situation it was found, of the few groups examined, that few, if any, of the applicants were complying with the requirements of the law and the rules and regulations of the General Land Office and of the Department of the Interior, respecting the purchase of such coal lands. If such investments in such companies are made, it will work a great hardship upon the individual stockholders if, after the corporations have been allowed to proceed, with the money of such stockholders, in the development of the coal fields, the Government suddenly thinks proper to cancel the title of such corporation or corporations to such lands.

Very respectfully,

HORACE TILLARD JONES,
Special Agent G. L. O.

You will recall, Mr. Chairman, that Mr. Glavis stated, or it appeared from the letter of Mr. Dennett of November 27, 1907, which was put in evidence, that he had telegraphed Mr. Glavis at Cheyenne to report to Washington—that was after the personal letter of Glavis to Mr. Schwartz of November 22—but that Mr. Glavis had left Cheyenne before the telegram was received, and that letter and telegram were sent to Portland requesting him to come. I have here and wish to introduce in evidence the telegram of November 26, 1907, to Cheyenne as follows:

[Telegram.]

"P"
HHS

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., November 26, 1907.

Address only the Commissioner of the General Land Office.

Special Agent L. R. GLAVIS,
c/o ADELBERT BAKER, Cheyenne, Wyo.

Veleet.

DENNETT,
Asst. Commissioner.

W. U.
O. B. G. R.
Chg. G. L. O.

GVF

[The attached telegram reads: "Report to Washington for consultation and instruction."]

And also the telegram of December 6, 1907, in pursuance to which Mr. Glavis went to Washington. The telegram of December 6, 1907 reads:

[Telegram.]

"P"

H. H. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 6, 1907.

Address only the Commissioner of the General Land Office.

Special Agent L. R. GLAVIS,
Portland, Oreg.

Veleet.

BALLINGER, Commissioner.

W. U.

O. B. G. R.

Chg. G. L. O.

G.V.F

[The attached telegram reads: "Report to Washington for consultation and instruction." H. H. S.]

Mr. BRANDEIS. I shall want, beginning with this period of December 6, 1907, which immediately precedes the date when Mr. Glavis had committed to him the investigation of all Alaska coal cases, to present from that date to the date of his dismissal from the service, September 18, 1909, his daily report, which daily report was sent to the General Land Office monthly; that is, the reports were made as of each day, and in a latter period——

The CHAIRMAN. But only transmitted once a month?

Mr. BRANDEIS. Transmitted only once a month. There was from time to time in those reports certain data which I would specifically call the attention of the committee to now, but I deem it important that his reports for each of those days may appear before the committee in view of a suggestion from time to time made that there was delay in the taking up of these coal cases.

I think it will appear from the report not only that there was no delay, but also that the matters as to what he was doing were being constantly called to the attention of the office, so that they were fully advised of the situation.

Mr. VERTREES. In this connection for convenience will you state to what officer of the department they were transmitted, those daily reports?

Mr. BRANDEIS. They are transmitted to the Commissioner of the General Land Office. I suppose they reach for inspection specifically Mr. Swartz. They go first, I suppose——

Senator FLINT. This may be of importance, but it seems to me we are having a very long discussion each time any paper is suggested to go into the record. I do not think that the long arguments that are going on here ought to go into the record.

Mr. BRANDEIS. A question was asked me and I merely answered a question as to that one.

The CHAIRMAN. The Senator means there ought not to be an argument every time you offer these papers in evidence.

Mr. BRANDEIS. I suppose you desire me in some way to call attention to this great mass of testimony of papers going in, in what connection they are offered.

The CHAIRMAN. Go on and offer your papers. You offer all those daily reports.

Mr. BRANDEIS. All the daily reports of Mr. Glavis beginning ——

The CHAIRMAN. Sent in monthly.

Mr. BRANDEIS. Transmitted monthly, as I understand.

The CHAIRMAN. While he had charge of the Alaska coal cases?

Mr. BRANDEIS. Yes, sir; beginning the 6th day of December, 1907, when this telegram was sent calling him to Washington, and ending the 18th of September, 1909.

Senator FLINT. Before those papers are introduced I want to know whether there is any member of the committee, whether the Secretary or the attorneys have looked over them to ascertain if there are any matters in them that should not be admitted in connection with other matters in which the Government is interested.

Mr. BRANDEIS. I think from the report it appears that that can not be. It is a very brief indication of what he was engaged on.

Senator FLINT. That is all I wanted to know.

Mr. BRANDEIS. And it merely fixes the date.

Senator ROOT. I understand it will be printed in this connection in the record.

The CHAIRMAN. Yes.

The CHAIRMAN. Is there any objection to this course? There is no objection.

Mr. VERTREES. Did I understand that they are to be printed?

Senator FLINT. Before we decide as to this printing in the record. I would like to know whether you or anyone has read over these reports to know as a matter of fact that they do not refer to other cases than are now under consideration by you in this investigation thus far, in which the Government's interest might be jeopardized by their being made public. Does anyone know as a matter of fact?

Mr. BRANDEIS. So far as I can judge I can see nothing that can possibly injure anyone. It is a report which designates the subject-matter with which he was occupied and on the different dates, where he was, and what matters he was engaged in. If there is any doubt on that point, I would be glad to have some one else say.

Mr. GRAHAM. Was it not understood that if there was anything of that sort the department would indicate it to the committee, and if they did not indicate it we might assume that there was nothing of the sort.

Senator FLINT. I did not so understand it, and that is why I am asking. There is a great mass of documents which, so far as I know, no member of this committee has read, nor has Mr. Brandeis.

Mr. BRANDEIS. I have not looked over them, and so far as I am concerned, I can not speak authoritatively as to that.

Senator FLINT. I think that they should be offered in evidence but before they are printed the clerk or some one else should look over them carefully to ascertain whether or not the interests of the Government would be jeopardized by making them public.

Mr. GRAHAM. I am sure the matter was up for discussion in the other room and that the conclusion was reached—

The CHAIRMAN. Not as to these documents.

Mr. GRAHAM. As to everything that might involve the public interest if made public.

Senator ROOT. Are we to understand that these are admitted in evidence subject to examination, and the striking out of matters not referring to the subject of this investigation, and referring to other cases in which it appears the matter ought not to be made public?

Mr. DENBY. That ought to be done in the presence of the other attorneys.

Mr. BRANDEIS. And then the matter can be called to the attention of the committee for its action.

The CHAIRMAN. I suppose the objection suggested by Senator Flint, relates to this fact, not to furnish information to these coal claimants by which they would be enabled to successfully fight the Government. This is the ground of his objection.

Senator FLINT. That is my idea exactly; not only in this case, but in other cases.

Mr. BRANDEIS. If there is objection found in looking over these it will be easy enough to leave blank certain individual names, if any individual names are mentioned, but I think the report is so meager that it would hardly give any such information.

The CHAIRMAN. Mr. Finney, are you familiar with these reports?

Mr. FINNEY. No, sir. I have not read them.

The CHAIRMAN. Is anyone in your office familiar with them?

Mr. FINNEY. Mr. Schwartz would be. They are matters under his supervision.

Mr. JAMES. I think that if the papers are not to be made public, the department refuses to give them out on that ground.

The CHAIRMAN. That is to the public, but we have called for them here. We have them up here.

Senator FLINT. They have notified us, I have forgotten just the language, that there are papers that they have sent here which ought not to be made public.

The CHAIRMAN. My clerk calls my attention to the fact that this includes some papers that the Secretary of the Interior, in transmitting them up here to the committee, suggested that they covered some matters that ought not to be, for the welfare of the Government, made public.

Mr. GRAHAM. I suggest that the examination of the papers should be made, and that they should be segregated and we take them up for conference and determine what course to pursue with respect to them.

The CHAIRMAN. Then they had better not go into the record at present.

Mr. GRAHAM. Not unless we agree on some that are clearly out of question.

Mr. BRANDEIS. The question now arises on these Glavis statements, which are the only ones now before the committee. I presume I could briefly state it in a few words.

The CHAIRMAN. Would it be agreeable to you to have Mr. Schwartz or somebody else go over these reports for the purpose of ascertaining whether there are any such reports that would be injurious to the Government's interest if published?

Mr. BRANDEIS. If he will call my attention to any that he thinks ought not to be made public, I think we can reach an agreement as to that.

The CHAIRMAN. Then let us suspend the printing of them until that is done. Is that satisfactory?

Mr. BRANDEIS. I would like very much to have Mr. Schwartz undertake it at once. I think it would not be a long job.

The CHAIRMAN. The printing of them will be suspended until that is done.

(At 12 o'clock and 45 minutes the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled at 2 o'clock p. m.

The CHAIRMAN. Mr. Brandeis, you may proceed.

MR. BRANDEIS. Mr. Chairman, I read certain reports, daily reports of Love, and desire to supplement those and have printed in the record, without taking up the time of reading them now, the full reports of Love from July 22 through the month of August, 1907, and then the dates of October 29 and November 12, 1907.

The CHAIRMAN. Is there any objection. [After a pause.] The Chair hears none. It is so ordered.

The reports are as follows:

July 22:

With Spl. Agt. Jones, conferred with the honorable Commissioner, G. L. O., on subject of coal-land locations in Alaska, and general conditions.

By verbal order of the honorable Commissioner, instructed to remain for present in Seattle to assist Spl. Agt. Jones.

July 23:

Assisting Spl. Agt. Jones, G. L. O., in securing addresses of coal-land applicants, Alaska

July 24:

As above, 23d inst.

Further conference with the honorable Commissioner. Letter to G. L. O., Luke coal entry, Ignatius Mullen.

July 25:

Securing addresses as above.

July 26:

Securing addresses as above.

Search for one S. R. Blonger, coal claimant, and for men employed by G. N. Ry Co., said to be locators of coal in Matanuska Valley, Alaska—Watson group.

Street-car fare to 1303 Western ave. & return.

July 27:

Further conference with the honorable Commissioner, G. L. O.

Interviewed J. R. Young, Seattle, coal locator, Katalla, and secured his sworn statement regarding his lease to T. P. McDonald, and status of coal-land claimants for whom he is agent.

Interviewed Chas. E. Shepard, of Shepard & Flett, attys., Seattle, attorney for T. P. McDonald, lessee of J. R. Young, coal claimant.

July 28 (Sunday).

July 29:

Interviewed W. V. Rinehart, Seattle, secy. of the Alaska Anthracite Coal Co. and locator of a coal claim, Katalla, Alaska, on status of company and of his claim.

Seeking Harry White, Los Angeles, Calif., transient in Seattle, and locator of coal lands in Alaska, to inquire into methods pursued.

By direction of the honorable Commissioner G. L. O., taking over Seattle end of investigation of coal matters from Spl. Agt. Jones.

July 30:

Called at office Watson Allen, Seattle, to interview him on subject of relations with Anglo-American Oil & Coal Co. and its coal interests at Katalla. Allen being absent sick, interviewed his secretary and was referred to Geo. H. Hill, secy. Guarantee Trust Co., Portland, Ore.

Interviewed Harry White, coal-land locator, Alaska, and organizer of Alaska Anthracite Coal Co., and secured his sworn statement regarding company and his coal interests in Alaska.

July 31:

Interviewed M. A. Green, agent for some seventy coal-land claimants, Katalla and secured correct addresses of all such, and other information.

Called at business address of R. S. Cox, jr., of Haller & Cox; referred to residence he being sick. Called at office address of Walter S. Fulton, attorney coal claimant Munday Group; Fulton absent.

Called at residence per directory, 1008 Washington street, of J. D. Gardner (Munday Group), coal claimant; found he had moved to West Seattle; address unknown.

Street-car fare to 1008 Washington street and return, \$0.10.

I hereby certify on honor to the correctness of foregoing statement.

H. K. LOVE,
Special Agent, General Land Office.

Daily record of work and expenses, August, 1907.

August 1, at Seattle, Wash.:

Interview with Clarence Cunningham, agent for 32 coal-land entrymen, Katalla, Alaska, and secured verbal statement of recent action taken by those of entry toward organizing a company to take over entered lands.

Letter to R. & R., Juneau, Alaska, reporting substance of above interview and inclosing supplemental affidavits in re coal-land applications for patent: Warner, Neill, Burbidge, Baker, and Moore.

Letter to W. H. Hurlburt, care of Morris Bros., Portland, Oreg., coal-land claimant, Katalla (Green group); reply to letter, May 27, in re coal entry.

Called at directory address of Lillian Dinius, coal claimant, Katalla (Christopher group), 1717 Belmont ave.; found she had moved to uncertain address.

Street car fare to Belmont ave. and return, \$0.10.

August 2:

Letter to H. T. Jones, Spl. Agt., G. L. O., 114 E. 3rd St. N., Portland, Oreg., with address of Geo. H. Hill, Portland, representative, Anglo-American Oil and Coal Co., operating in Kyak district, Alaska; suggesting interview.

Called at office of Scott Calhoun, coal claimant, Katalla (Munday group); absent.

Letter to G. L. O., reporting recent action toward formation of coal company taken by entrymen of Cunningham group.

Copy of daily record of work and expenses for July to accompany account for that month.

August 3:

Called on Oldham Gates, Peerless saloon, No. 218 Fourth ave., and arranged for interview any day after 3.00 p. m.

Called at residence of R. S. Cox, jr., coal-land claimant, Katalla (Munday group), and interviewed him; residence 1016 Boylston ave.

Called at office of Scott Calhoun, above; absent.

Copy of daily record of work and expenses for June, 1907, to accompany account for that month.

August 4 (Sunday).

August 5:

Interviewed F. C. Harper, Port Townsend, coal claimant, Katalla (Green group), and secured sworn statement.

Letter to H. T. Jones, Spl. Agt., G. L. O., Portland, Oreg., including list of Portland members of group of M. A. Green, coal-land locators, Katalla, with addresses.

Interviewed Walter S. Fulton, Mutual Life, coal-claimant, Munday group, and secured verbal statement.

Interviewed Scott Calhoun, coal-claimant, Munday group, and secured verbal statement.

Interviewed Charles F. Munday, agent for twenty-seven coal-claimants, Kyak Recording District, Katalla, and secured incomplete statement.

August 6:

Letter to G. L. O. explaining items in July account.

With J. A. Gould, representative of the Hon. Secy. Interior, called on Oldham Gates, Peerless saloon, 4th ave., of record as coal-claimant, Katalla (Simmonds group), and secured verbal statement disclaiming having ever located coal-land in Alaska.

Conference with J. A. Gould, representative as above, on conditions and methods of official work in Alaska.

Conference with H. T. Jones, Spl. Agt., G. L. O., returned from Portland.

Interview with M. A. Green on subject of proof on coal-claim by an administratrix.

To 721 Sixty first st. to interview Albin Bredenberg, coal-claimant, Katalla (Freed group); found he had gone to Alaska.

Monthly account for June, 1907:

To street-car fare, 61 ct. and return, \$.10.

August 7:

Called on Fredck. Felitz, 121 $\frac{1}{2}$ Yeeler Way, and arranged for meeting at 4 p. m., 8 inst., with himself, brother, and son-in-law, Andrew W. Lyden, coal-claimants, Katalla (Freed group).

Called at office of A. C. Fry, 606 Western ave.; not in.

Called at 1604 A. Terry ave. to interview Harry D. Weeks; found that he was absent at Katalla, Alaska.

Called at 525 Twenty-first ave. to interview Jos. E. Fredland; was referred to Star-Boyd Bld. # 69; called there to find that Fredland of that number, brother to Jno. E. of 21 ave., knew nothing of Joseph E. of record as coal-claimant, Katalla (Simmonds group).

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Again called at 606 Western ave. to interview A. C. Fry, coal claimant, Katalla, Munday group; did not see him.

Called on Wm. Gottstein, 119 Yealer Way, coal-claimant (Munday group), interviewed him; declined to sign statement of substance of interview.

Called at 408 Fourth ave. to interview John Hughes (Anglo-American group coal-claims, Katalla); Hughes absent.

Called at 1826 Boren ave. to interview Addie E. White, coal-claimant, Katalla, David H. White, agent; not at home.

Street car fares:

1604 Ferry ave. and return.....	\$.1
21 ave. and return.....	.1
408 Fourth ave. and return.....	.1
1826 Boren ave. and return.....	.1

August 8:

Called at 121½ Yealer Way and interviewed Fredck. Felitz, William Felitz, an Andrew N. Lydun, coal-claimants, Katalla, W. N. Litchen group, and secured the sworn statements.

Interviewed Wm. Devere and George Hartig at 114 Pike st., after visiting residen of Devere, 11 West Republican st., coal-claimants, Katalla (Christopher group both disclaimed any such holding, but declined to sign statement.

In company of Spl. Agt. Jones, G. L. O., and C. F. Munday, interview with t Honorable Commissioner, G. L. O.

Street-car fare, 11 West Republican and return, \$.10.

August 9:

In office of Alaska Petroleum and Coal Company, 731 N. Y. Bk., interviewi Clark Davis, V.-Pt. & Genl. Mgr., and H. R. Harriman, Secy., and securing latte sworn statement in writing; not fully completed.

Interview with A. W. Tibbitt, Valdez, Alaska, and secured sworn statement detail of expenditures in Chilty, Queen, and Fourth of July mineral claims, Valc recording district.

August 10:

Completing statement in re Alaska Petroleum and Coal Company.

Securing completed type-written statement in re Munday, agent.

Drawing up substance of interviews with Scott Calhoun, Walter S. Fulton, and R. Cox, jr., coal-claimants, Katalla, Munday group; and of same with Oldham Gates, record as coal-claimant (Simmonds group).

Assistance in report on coal-matters in Alaska, by H. T. Jones, Spl. Agt., G. L. of same date.

August 11 (Sunday):

By direction, interview with the honorable Commissioner, G. L. O.; verbal auti ty to remain temporarily in Seattle "as long as necessary."

August 12:

Letter G. L. O., transmitting June, 1907, account, and explaining employmen guide.

Letter to G. L. O. requesting that a roll-top desk and typewriter table be furnis for Juneau office, quoting some Seattle prices.

Letter to R. & R., U. S. land office, Juneau, inclosing sworn statement A. Tibbitt, Iuka, Chitty, Queen, and Fourth of July mineral applications, and w drawing objections to entry.

Accounts for June and July, 1907, mailed G. L. O.

Interviewed D. A. McKinzie, Seattle, prospective coal-land purchaser, Kats urging necessity that original locations be bona-fide.

Called at 731 N. Y. Bldg. for promised affidavit of John Schram and T. S. Li and O. E. Sauter, coal claimants, Katalla, Hunt group (Alaska Petroleum and (Co.); not yet prepared.

August 13:

Interview with C. H. Doughten, agent for some 37 coal-land claimants, Kats discussed methods followed and made appointment for 14" inst. to complete a st ment.

Called at 307 Second ave., searching for Jas. W. Dunlap, coal-land claimant, talla (Simmonds group); advised by restaurant proprietor that he formerly cooked him, but not for several months; present address unknown.

Called at 323 Second ave., searching for Ed. Cosgrove (saloon keeper), coal-l claimant, Katalla (Simmonds group); found he was out of city, camping.

Search for 1518½ First ave., to interview Wm. J. Walsh, coal claimant, Ka (Simmonds group), without finding Walsh.

Street-car fare to 1518½ 1st ave. and return, \$.10.

Wednesday, August 14:

Interviewed C. H. Doughten, agent for 39 coal claimants, Katalla, and secured his sworn statement regarding methods followed.

Copy of statement for files.

August 15:

To 1717 Belmont ave., searching for present address of Lillian Dinius, coal-land claimant, Katalla (Christopher group); inquiries in the neighborhood without results.

To 1604A Terry ave., to interview Cecil Weeks, coal-land claimant, Katalla (Christopher); absent.

To 610 James st., to interview F. B. Kroeger, coal claimant, Katalla (Simmonds); directed to 622 Fifth ave.; there informed by father-in-law that Kroeger (bartender by occupation) was now at 212 N. Grand ave., Los Angeles, Calif.

Secured affidavit of T. S. Lippy and John Schram, coal claimants, Katalla, Hunt group, Alaska Petroleum and Coal Co., concerning the bona fides of their locations.

Copies of above affidavits for files.

Street-car fare:

Belmont ave. & ret.....	\$. 10
Terry ave. & ret.....	. 10
610 James st.....	. 05

August 16:

To 218 Fourth ave. S., and interviewed Geo. F. Smith, coal claimant (Simmonds), saloon keeper; claimed to own coal land with one M. C. Sweeney, who knew details; would try to find Sweeney.

To 722 Washington st., to interview Jas. N. Tearney (bartender), local claimant, Katalla (Simmonds); wife & Tearney absent.

To 536 Pioneer Bldg.; interviewed L. W. Penney; said about two years ago he gave M. C. Sweeney power-of-attorney to locate coal in Alaska, without cost to himself; that Sweeney said he would make it right with him; referred to Sweeney for details; to be found at Singer's saloon.

At saloon found H. A. Platt, coal claimant (Simmonds), and made appointment to meet Sweeney at U. S. land office 10.00 a. m. Saturday, 17 inst.

Street-car fare, 722 Washington st. & ret., \$.10.

August 17:

To 609 Tenth ave., to interview Helen G. Morrill, coal claimant, Katalla (Christopher); no one at home.

Interviewed Ignatius Mullen, coal claimant, Katalla (Cunningham), and secured his sworn statement concerning bona fides of entry.

At U. S. land office, 9.30 to 11.00 a. m., to meet M. C. Sweeney, who failed to keep engagement.

To 731 N. Y. Bldg to secure affidavit of O. E. Sauter, coal claimant, Katalla, Hunt group; without success.

Was interviewed by one Seaborg regarding homestead and other laws affecting Alaska public lands.

Street-car fare to Tenth ave. and return, \$.10.

August 18 (Sunday).

August 19:

Report to Hon. Commissioner G. L. O. in re: Protest by A. S. Bailey against issuance of patent to Clark Davis, applicant under Sol. Add. Homestead, U. S. Survey No. 147; directed by Letter "P," 1907, 82850, L. E. E., June 6, 1907.

Called at 731 N. Y. Bldg. and secured affidavit of O. E. Sauter, Re, bona fides of his coal filing at Katalla.

Called at 609 Tenth Ave. to interview Helen G. Morrill, coal claimant (Chenlaptur); absent at Lake Chelan on vacation.

Called at 612 Belmont Ave. to interview H. F. Gibson, coal claimant (Simmonds); Gibson stated had given power of attorney to M. C. Sweeney, who could tell all about it. Agreed to learn details from Sweeney.

Street-car fare:

Tenth Ave.....	\$0. 05
Belmont Ave.....	. 05

August 20:

Letter to A. W. Barnum, Katalla, Alaska, reply to letter of June 19, 1907, on subject of scrip.

Called at 518 Pike St. to interview B. S. Brown, coal-land claimant (Simmonds); referred to the Empire Bldg.; called there, not finding him.

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Letter to Frank Watson, Seward, Alaska, agent for coal-land claimants, Metanusha Valley, Re, his letter of July 13, 1907, urging bona-fides.

Endeavor to find M. C. Sweeney at Singer saloon, &c., without success.

Street-car fare to 518 Pike and return, \$0.10.

August 21:

Called at office B. S. Brown, Empire Blk., to interview him regarding his Alaska coal claim; not in.

Report in timber trespass: James E. Sayles, Ketchikan, June-August, 1906, for 1,400 linear feet piling; copy of report and of proposition to settle for piles.

Report in above, with proposition and $\frac{c}{c}$ 7.00 to G. L. O.

Report in timber trespass: Cleary Creek Lumber Company, Cleary City, Alaska, 1906, for 500,000 feet b. m.; copy of report and of proposition to settle for files.

Report in above with proposition and $\frac{c}{c}$ 100.00 mailed G. L. O.

August 22:

Letter to H. T. Jones, Spl. Agt., G. L. O., inclosing affidavits of T. S. Lippy, John Schram and O. E. Sauter, coal claimants (Hunt Group), and sworn statement of C. H. Doughten, agent for 39 coal-land claimants, Katalla, for transmittal to G. L. O., with supplemental report.

Called on J. E. Chilberg, Pt. Tanana Electric Co., Fairbanks, Alaska, to secure balance of \$42.60 due for public timber used by plant, Sept. 15 to Dec. 8, 1906; referred to treasurer, Fairbanks.

Copy of affidavits of T. S. Lippy, John Schram, and O. E. Sauter, above, for files.

August 23:

Report in timber trespass: Ellamar Mining Company of Alaska, 1906; copy of report and of conditional proposition for files.

Report above with proposition to G. L. O.

August 24:

Report in timber trespass: Charles Nye, Skagway, April 1, 1906, May 23, 1907, for 303 cords of fire wood; copy of report and of proposition for files.

Report as above with proposition and $\frac{c}{c}$ 45.45 mailed G. L. O.

August 24:

Report in timber trespass: Fidalgo Island Packing Co., Ketchikan, April, 1906, to March 7, 1907, 60 cords wood and 320 linear feet piling; copy of report and of proposition for files.

Report above with proposition and $\frac{c}{c}$ \$25.00 to G. L. O.

Letter to J. F. Edwards, 1913½ Olive st., St. Louis, Mo., reply to letter of April 4, 1907, making inquiries regarding public land laws of Alaska.

August 25 (Sunday).

August 26:

To 722 Washington st. to interview James W. Tearney, coal-land claimant (Simonds) not found at home.

To 1604A Ferry ave., to interview Cecil Weeks, coal claimant, Katalla (Christopher); not found at home.

To 1710 E. Spruce st., to interview H. B. Runnels, coal claimant, Katalla (Simmonds) finding no one at number.

To 212 Occidental ave. to interview Thomas M. Henderson, coal claimant, Katalla (Simmonds); said agent was M. C. Sweeney; could not remember amount invested and referred to Sweeney.

Street-car fare:

722 Washington st. & ret.....	\$0.1
1604 Terry ave. & return.....	.1
1710 E. Spruce st. & ret.....	.1

August 27:

Report in timber trespass: Northern Commercial Co. (Fairbanks Electric Plant San Francisco, Cal., Apr. 24 to Dec. 31, 1906, of 1,056 cords firewood.

Copy of report and of proposition for files; report and proposition with $\frac{c}{c}$ \$158. mailed G. L. O.

Letter to Northern Commercial Co., San Francisco, Cal., reply to letter of Apr. 1 1907, and acknowledging receipt of propositions of settlement for timber, Navigati Department, 1906, 8,523 cords with $\frac{c}{c}$ \$1,278.45, and Fairbanks Electric Plant, Apr 24 to Dec. 31, 1906, 1,056 cords with $\frac{c}{c}$ \$158.40, inclosing vouchers.

August 28:

Report in timber trespass: North American Transportation and Trading Company No. 767 Rookery, Chicago, and Seattle, Wash., 1903 to "fall of 1905," 7,019 cords firewood; copy for files.

Letter to W. H. Hurlburt, care Chas. Sweeney, 27 Williams st. (Lord's Court) New York City, coal claimant, Katalla (Green group), reply to letter 12 inst. subject of claim.

Letter to Edgar M. Wilson, secy., Tanana Electric Co., Fairbanks, Alaska, acknowledging receipt of proposition to settle for public timbers, Sept. 15, 1906, to Dec. 8, 1906, with draft \$116.77 therefor; calling for \$42.60 to balance, with directions for future settlements—inclosing blank proposition for settlement season 1907.

August 29:

To 560 John st., to interview Alfred Edwards, coal claimant, Katalla (Simmonds); not found at home.

To 609 Tenth ave., searching for Helen G. Morrill, coal claimant, Katalla (Christopher); informed she now lives at Kent, Wash.

To 616 Burke Bld., to interview John P. Hartman, coal claimant, Katalla (Christopher); not found in.

To 4115 Fremont ave., to interview W. J. Landon, coal claimant, Katalla (Simmonds group); was referred to Empire Building.

Car fares: To John st. & ret.; to 10th ave. & ret.; to 4115 Fremont ave. & ret., and to 2102 E. Madison ave. and return, \$.40.

August 30:

To office, Pier No. 6, North American Transportation and Trading Company and secured reendorsement to order of Honorable Commissioner, G. L. O., of % \$1,052.85 Re, timber trespass.

To S. Rainier Boul., near Court, S. E. Seattle, via York to interview Arthur A. Seagrove and Mabel A. Seagrove, coal-land claimants, Katalla (Christopher group); Seagrove said Christopher had induced him to go into it and that plan was to sell the many holdings to a large concern; he could not remember what amount he had invested; Christopher and wife had lived with him for years when he ran the Occidental Hotel, and he had contributed to some of his expenses, but did not know how much. He expected to give Christopher "the lion's share" of his portion in case of sale.

To 616 Burke Blding., and interviewed John P. Hartman, of record as coal claimant, Katalla (Christopher); says has exhausted his right and wishes to relinquish Alaska claim.

To Empire Building and interviewed W. J. Landon, coal claimant, Katalla (Simmonds); to effect that he had assigned his claim, without consideration, to M. C. Sweeney.

Car fare to York and return, \$.10

August 31:

Report in timber trespass, N. A. Transportation and Trading Company, with proposition to settle and % \$1,052.85 mailed G. L. O.

Copy of "Daily Record of Work and Expenses" for August to accompany account for that month.

SEATTLE, WASHINGTON, Sept. 4, 1907.

I hereby certify to the correctness of foregoing record.

H. K. LOVE,
Spl. Agt., G. L. O.

(The daily reports of Mr. Love for Oct. 29 and Nov. 12 are as follows:)

Daily report.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
October 29, 1907.

Interview with Charles Green, Juneau, Alaska, owner of sawmills at Douglas and on Admiralty Island, re law of liability for public timber cut for traffic and method pursued by department enforcing such, with the probable valuation of stumpage for 1907-1908.

Per verbal instructions of the honorable commissioner, G. L. O., called on P. M. Mullen, receiver and father of Ignatius Mullen, coal-land claimant under U. S. coal land survey No. 41, "Lobster" claim. Desired sworn statement as to his interest or noninterest therein, and if the money invested or any part of it was loaned to son by him. Mr. Mullen declined to make the statement, though protesting all was right; finally said he would hand me a written statement.

H. K. LOVE, *Special Agent.*

Daily report.

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DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
November 12, 1907.

At Juneau, Alaska.

Letter to G. L. O. inclosing sworn statements of P. M. Mullen and Ignatius Mullen, in coal cash entry No. 5, Cunningham group, Kalatla, recommending issuance of patent therein, with reasons therefor.

Letter to G. L. O. acknowledging Letter "P" 42183, E. S. E., re., timber trespass, 1906, Ellamar Mining Co., and explaining reason why proposition therein refers question to the honorable Secretary of the Interior, apparently contrary to instructions of July 5, Letter "P," 39691, E. S. E., in Alaska Oil and Guano Co. timber trespass case; acknowledging such instructions for future guidance. Copy of Letter "P" 42813, E. S. E., Oct. 14, 1907, for submission to proponent in call for certified check \$158.60.

H. K. LOVE, *Special Agent.*

Mr. BRANDEIS. Mr. Chairman, the full report, so called, the summary and report of Attorney-General Wickersham to the President.

The CHAIRMAN. That is already in the record.

Mr. BRANDEIS. I understand it is in the record. It has not been read, except in small part, by Mr. Vertrees. I desire to call the attention of the committee to the fact, without reading it, that there is nowhere mentioned in that report—

The CHAIRMAN. That is a matter of argument.

Mr. BRANDEIS. I beg your pardon. It will be necessary to either read the report to the committee or call the committee's attention to what is not in it. There are two ways of showing that—either by reading the 85 pages of the report or calling your attention to the fact that there is not anything in it on certain subjects. I suppose you prefer that I should call your attention to it.

The CHAIRMAN. Go ahead.

Mr. BRANDEIS. I desire to call your attention to the fact that there is not in that report a single reference of any kind to what Mr. Hoyt has testified to to-day—namely, his conference with the Attorney-General.

I desire in that connection to read to the committee what I understand is a passage from the letter of Secretary Ballinger to the President, dated September 4, 1909.

The CHAIRMAN. Is that in this document?

Mr. BRANDEIS. It is in the Senate document.

The CHAIRMAN. What page?

Mr. BRANDEIS. Page 67. And I call attention in connection with Attorney-General Hoyt's testimony, to the following passage—

Senator SUTHERLAND. It is not in the record now?

Mr. BRANDEIS. I understood the whole record is all in.

Senator SUTHERLAND. It is not printed?

Mr. BRANDEIS. It is not printed.

The CHAIRMAN. But it is all admitted. Whereabouts—what part of the page is that?

Mr. BRANDEIS. Near the top of the page; the fourth line. It reads as follows:

It had been all along the determination of myself and other officers of the department to secure the opinion of the Attorney-General construing the act of May 28, 1908. Glavis is entirely in error in assuming that his conversation with the Attorney-General had any effect upon the matter being submitted to the Attorney-General.

Senator SUTHERLAND. Do you not want to put in the next sentence, Mr. Brandeis?

Mr. BRANDEIS. I would be very glad to read any portion of it [reading]:

After the Cabinet meeting on May 25 I suggested to the Attorney-General the advisability of an opinion from him on the construction of the Alaska coal-land law of May 28, 1908, and I then learned for the first time from the Attorney-General that Glavis had spoken to him about the matter.

I desire to call the attention of the committee to the daily reports of Glavis.

The CHAIRMAN. Have those reports been examined?

Mr. BRANDEIS. These are among those that have been examined and passed.

4-509.

Daily report.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *December 12, 1907.*

In conference at G. L. O. in re work of first field division and Alaska Coal Cases.
L. R. GLAVIS, *Special Agent.*

December 13, the same. December 14, the same. December 15 is Sunday. December 16, the same, in conference. December 17, the same. December 18, the same. December 19 is the same, and also indicates Mr. Glavis leaving Washington.

In connection with the cross-examination of Mr. Glavis as to Mr. Schwartz having ordered the clear listing, I desire to call the attention of the committee to the two passages——

The CHAIRMAN. In the same book?

Mr. BRANDEIS. This is in Senate Document 248, page 225. It begins on page 214, and this occurs on page 225 of Mr. Schwartz's statement to the President.

The CHAIRMAN. What part of the page?

Mr. BRANDEIS. The third paragraph, beginning on page 225:

Judge Ballinger, relying upon the Love report, directed me to send the Cunningham entries to the mineral division for patent, if regular; which was done. At about the same time the mineral division reported the reception of certain additional Cunningham claims not mentioned in Mr. Love's report, which were directed to be held pending further report.

At the time the order was given to clear list these cases I suggested either to the commissioner or the assistant commissioner that Special Agent Glavis had been given charge of all Alaskan investigations, and I was thereupon directed to advise him that the entries had been clear listed upon Mr. Love's report.

I desire to call the attention of the committee also, on page 460 of Senate Document 248, to a statement, which is a part of a statement made by Mr. Schwartz to Secretary Ballinger, as to the record in the Cunningham cases.

Senator FLINT. The papers you are now reading have not been introduced?

Mr. BRANDEIS. I understood this whole book had gone in, but all these are those which have not been called to the attention of the committee, and I think Mr. Vertrees should have called them to the attention of the committee in connection with the examination in which he indicated that Mr. Schwartz had ordered the clear listing.

The CHAIRMAN. This whole book is in.

Mr. BRANDEIS. Senator Flint, I am merely calling attention to those things which have not been introduced or called to the attention of the committee.

The CHAIRMAN. What paragraph, Mr. Brandeis?

Mr. BRANDEIS. This is the fourth paragraph in italics.

The CHAIRMAN. The whole paragraph?

Mr. BRANDEIS. I am going to read a portion of it. This is addressed by Mr. Schwartz to Secretary Ballinger, and reads as follows:

In December, 1907, some of the entrymen in the Cunningham group appeared before you and were heard orally upon the bona fides of their claims. I do not know who were these men, but I believe that ex-Governor Miles C. Moore was of the party. I was not present at the hearing, but you will probably recall the same.

Mr. JAMES. Who was that letter addressed to?

Mr. BRANDEIS. That is a part of a report which Mr. Schwartz made to Secretary Ballinger, who at that time was in the West making up a record of all the papers in the Cunningham cases, together with certain explanatory statements which appear in italics in the Senate document.

You will remember, Mr. Chairman, that the formal order clear listing the Cunningham claims was dated January 4, 1908. There is in the Senate Document 248 the telegram from Love, reading:

Answering telegram 4th. All Cunningham coal entries same status.

That was on the 6th of January. There is not in the record the copy of the telegram of the commissioner to Love, to which that was a reply, and in response to the call we have now that telegram, which reads as follows:

WASHINGTON, D. C., January 4, 1908.

Special Agent LOVE,

Juneau, Alaska:

Your report August 7 last on Cunningham group coal entries did not report entries 16 and 31 and 22 to 26. Can these be proved? Answer.

BALLINGER, Commissioner.

Senator FLINT. What was that last number?

Mr. BRANDEIS. Twenty-two to 26—16 and 31 and 22 to 26.

There is another telegram that has not been produced and is not here. We will have to get that here.

Mr. JAMES. The telegram was in the list?

Senator ROOT. It is on page 46 of this document.

Mr. JAMES. It is not in the record.

The CHAIRMAN. We have put in this whole book as evidence.

Mr. JAMES. Yes, I know; but I think if he wanted to put it in this record here he had a right to do it, as he was putting these other letters in.

Mr. DENBY. But he expressly stated that he was only putting letters which had not as yet appeared.

Mr. GRAHAM. A reference as to where it can be found would suffice.

Mr. BRANDEIS. The chairman will remember that on page 609 the record he called the attention of Mr. Glavis to the fact that after clear listing there elapsed ordinarily before the patents were ready to issue from three months to three years. I desire to introduce evidence here the record of the drafting of the patents, which I have been drafted for the Cunningham cases prior to January 23, and I specifically to call the attention of the committee to the date when the request for the directions to prepare these patents were given.

In the first place, I will introduce a draft of a patent, evidently a carefully prepared instrument in manuscript, which shows on its face that it is a very carefully prepared document, in view of the fact that this was the first patent expected to be issued under the Alaska law and I would like to have you——

The CHAIRMAN. Let me ask, does this patent relate to one of the Cunningham groups?

Mr. BRANDEIS. Yes, sir; the first draft, which is prepared as a copy and model.

The CHAIRMAN. As a form?

Mr. BRANDEIS. As a form for the drafting clerks to copy in preparing these patents, and evidently a work requiring some time. I would like to have that appear in the record; not only copied in the record, but appear the fact that there is first a manuscript draft covering three large pages, and then a second draft in typewriting corrected.

Senator SUTHERLAND. That was to serve as a model for all the future Alaska patents?

Mr. BRANDEIS. Yes, sir.

The CHAIRMAN. What was the date it was prepared?

Mr. BRANDEIS. The date of preparation——

The CHAIRMAN. Is there anything in the paper to show when it was prepared?

Mr. BRANDEIS. The date of preparation does not appear, but I purpose showing that on January 6 there was already issued to Division B an order to draw up patents.

Senator SUTHERLAND. Now, what is there in the paper to show that it related to the Cunningham claims?

Mr. BRANDEIS. In the first place it is referred to as coal certificate 17, which is the first entry; certificate which is ordered to be——on which the patent is ordered to be drafted.

Senator SUTHERLAND. That would be one of a number of——

Mr. BRANDEIS. One of the Cunningham entries; they ran from 1 to 33, and 17 happens to be the earliest in number that was sent into Division B. As I say, these papers that I have in my hand here are the original drafts from which that certificate 17 and subsequent patents were to be drawn.

Senator SUTHERLAND. Now, is there any purpose to be served by copying that whole thing into the record?

Mr. BRANDEIS. Yes, I think there is, for this reason: It is a draft that is written in ink and quite a number of interlineations in pencil, and which indicates, therefore, that a considerable amount of labor must have been expended upon it and therefore a certain amount of time. This other draft is a draft in typewriting which follows it, which also is an original draft of another entry, namely, No. 19, and that also shows interlineations which indicate the expenditure of considerable time upon it.

Mr. DENBY. Wait a minute. How do you identify these drafts as having been prepared to serve as models for all the Alaska patents?

Mr. BRANDEIS. There is a memorandum on it.

Mr. DENBY. That is what I mean. Did you ask for that?

Mr. BRANDEIS. It was used for a form.

Mr. DENBY. Did you ask for it?

Mr. BRANDEIS. I asked for it. It is furnished by the Secretary of the Interior.

Senator ROOT. Are they the same?

Mr. BRANDEIS. No. One is 17—

Senator ROOT. But I mean are the prints the same?

Mr. BRANDEIS. I am unable to answer about how nearly—there is a material difference in length, and I do not know how far they may differ otherwise.

The rough draft is as follows:

[The part inserted in italics indicate the lead pencil interlineations and the matter in heavy brackets the part stricken through.]

G. L. O.
2564

4-401 M-ty.
[Used for form, June 6, 1900.]

COAL CTF.
17.

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING.

Whereas, in pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of April 23, 1904, there has been deposited in the General Land Office of the United States, a certificate of the register of the land office at Juneau, Alaska, whereby it appears that William E. Miller did on the 11th day of April, 1907, enter and pay for the lands embraced in U. S. Coal Land Survey No. 61, known as the Tulare coal claim, in the Kayak recording district, Alaska, being more particularly described as follows, with magnetic variation as hereinafter stated [29° 45' east]: Beginning at Cor. No. 1, from which U. S. L. M. No. 7 bears N. 87° 18' 14" E., 26.15 chains, distant identical with Cor. No. 4 of the Plutocrat survey, Cor. No. 1, Ludlow survey the N. E. cor. of the Tampa coal claim unsurveyed, and Cor. No. 4 of the location, falls in deep canyon, not established [set]; thence 1st course S. on east line magnetic variation 29° 45' E. 2.38 chains to witness cor. to Cor. No. 1, identical with witness corners to Cor. No. 4, of said Plutocrat survey, the Cor. No. 1 of said Ludlow survey, & the N. E. cor. of said Tampa coal claim unsurveyed, and Cor. No. 4 of the location, a hemlock post 3 ft. long, 4 ins. square, set 18 ins. in ground, with mound of stone, marked W. C. Cor. 1 Tulare on S. E. face, whence U. S. L. M. monument No. 7, bears N. 82° [0] 7' 52" E. 26.37 chains dist., 39.88 chs. to Cor. No. 2, identical with the S. E. cor. of the Tampa, the N. E. cor. Bozeman, and N. W. cor. of the Boston coal claims, unsurveyed, and Cor. No. 1 of the location, a spruce post 3 ft. long, 4 ins. square, set 18 ins. in ground, with mound of earth, marked Cor. 2 Tulare on N. E. face; thence, 2nd course, E. on south line mag. variation 29° 30' E. 39.90 chains to Cor. No. 3, identical with Cor. No. 2 of the location, the N. E. cor. of the Boston, and the S. W. cor. of the Wallula coal claims, unsurveyed, a hemlock post 3 ft. long, 4 ins. square, set 18 ins. in ground, with mound of stone, marked Cor. 3, Tulare on the N. W. face; thence, 3rd course, mag. va. 29° & 35' east N. on inaccessible east line [29° 35' E.] 39.89 chains to Cor. No. 4, identical with Cor. No. 1 of the Plutocrat survey, the S. W. cor. of the Wabash, and the N. W. cor. of the Wallula coal claims, unsurveyed, and Cor. No. 3 [Cor. No. 4] of the location falls on steep slope not established [set]; thence, 4th course, mag. 29° & 30' east W. on [north line] inaccessible north line [29° 30' E.] 13.19 chains to witness cor. to Cor. No. 4, identical with witness corners to Cor. No. 1 of the Plutocrat survey, the S. W. cor. of the Wabash and the N. W. cor. of the Wallula coal claims, unsurveyed and Cor. No. 3 of the location—a hemlock post 4½ ft. long, 4 ins. square, set 18 ins. in ground with mound of earth marked W. C. Cor. 4 of the Tulare on the S. W. face, whence U. S. L. M. No. 7 bears N. 27° [0] 7' & 17" W. 1.38 chains dist., 39.9 chains to Cor. No. 1, the place of beginning containing 159,241 acres.

In testimony whereof, I, _____, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the _____ day of _____, in 11 year of our Lord one thousand nine hundred and _____, and of the Independence the United States the one hundred and _____.

By the President: _____.

By _____, Secretary.

[SEAL.]

Recorder of the General Land Office.

General Land Office.
No. 2565.

4-401 M-ty.

Coal Certificate
No. 19.

The United States of America,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas, In pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of ~~May 8,~~ *April 28*, 1904, there has been deposited in the General Land Office of the United States, ~~the~~ a certificate of the register of the land office at Juneau, Alaska, whereby it appears that

B. C. RIBLET

did, on the 11th day of April, A. D. 1907, enter and pay for the lands embraced in U. S. coal land survey, No. 68, known as the Clear coal claim, in the Kayak Recording District, Alaska, being more particularly described as follows; with magnetic variation twenty-nine degrees, forty minutes east:

Beginning at corner No. 1, identical with corner No. 2 of the location, corner No. 3 Tampa survey, corner No. 4 Bozeman survey and the northeast corner Calais coal land claim, unsurveyed, a hemlock post three and one-half feet long, four inches square, set eighteen inches in ground, with mound of earth, ~~scribed~~ *marked* cor. No. 1 Clear, on northwest face whence U. S. location monument No. 7 bears north fifty-eight degrees, four minutes, fifty-five seconds east, seventy-seven and seventy-six hundredths chains distant; thence north thirty-nine and eighty-nine hundredths chains to corner No. 2 identical with corner No. 3 Newgate survey, corner No. 2 Ludlow survey, corner No. 2 *said* Tampa survey, and corner No. 3 of the location; a hemlock post three and one-half feet long, four inches square set eighteen inches in ground, with mound of earth, ~~scribed~~ *marked* cor. No. 2 Clear, on southwest face, whence U. S. location monument No. 7 bears north eighty-eight degrees, fifty-six minutes east sixty-six and five-hundredths chains; thence west thirty-nine and eighty-eight hundredths chains to corner No. 3 identical with corner No. 4 of Newgate survey, corner No. 3 of Syndicate survey, corner No. 2 of Socorro survey, and corner No. 4 of the location, a hemlock post three feet long, four inches square set eighteen inches in the ground, with mound of earth, ~~scribed~~ *marked* cor. No. 3 Clear, on southeast face; thence south ~~forty and thirteen-hundredths~~ *39.92* chains to cor. No. 4, *not established*, whence witness corner to corner No. 4, identical with witness corners to corner No. 1 of the location, corner No. 3 of Socorro survey, corner No. 2 of Carlsbad survey, and the northwest corner of Calais coal claim unsurveyed, a hemlock post three feet long, four inches square set eighteen inches in ground, with mound of stone, ~~scribed~~ *marked* cor. No. 4 Clear on northeast face; *bears S. 21 chains distant* thence east from true corner ~~south~~ *thirty-nine and ninety-hundredths* chains to corner No. 1 the place of beginning, containing one hundred fifty-nine and two hundred one thousandths acres, more or less:

Now know ye, that the United States of America, in consideration

(Here insert regular granting clause used in Coal form 4-460a.)

In testimony whereof, I, ———, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the — day of —, in the year of our Lord one thousand nine hundred and —, and of the Independence of the United States the one hundred and —.

By the President: ———

By ———, Secretary.

Recorder of the General Land Office.

Recorded Vol. Page

Mr. BRANDEIS. The other documents which I now have in my hand are the final drafts—that is, the clean draft of patents—and annexed to these are the memorandum, which is brief and which I will read. This is:

Land office, Juneau, Alaska: Kind of case, coal; number of case, 6; received 1-6-08. "N." (From suspend). Lot No. 434; 17-2564; 19-2565; 21-2566 (from suspension); 29-2566.

And in pencil, "Should be 2569; 29-2570; 23-2567." At the bottom written, "S. B. Trimble, examined by Miss Patterson;" and then written across it in pencil is this: "Withdrawn by Division N, January 23, 1908. Susps."

The CHAIRMAN. That is the clear-listing division, is it not?

Mr. BRANDEIS. No; N, as I understand—well, it is the mineral division N. B I understand to be the patent drawing division. Suspended under this, January 23, 1908.

The next memorandum is:

Land office, Juneau, Alaska: Kind of cases, coal; No. of cases, 2. Received 1-13-08. "N" List 196. Lot No. 465—3-2586. 22-2587. Written by Trimble 1-8-08. Withdrawn by Div. "N" January 23, 1908.

The CHAIRMAN. That is withdrawn from the patent division?

Mr. BRANDEIS. That is the memorandum—withdrawn on that date, and January 23 is the date when it is alleged that the Glavis protest was received.

The CHAIRMAN. And that was what the withdrawal in the other case meant, was it?

Mr. BRANDEIS. Precisely. Then, again:

Land office, Juneau, Alaska: Kind of case, coal; No. of case, 1. Received 1-20-08. "N" List 197. Lot No. 521. 5-2593—

With a similar statement written across it—

Withdrawn by Div. "N" January 23, 1908, susp. S. P. T. 1-21-08.

Next to that is a paper containing a list of these cases and a statement of the withdrawals.

The CHAIRMAN. What is the date of that?

Mr. BRANDEIS. This is merely a memorandum prepared by the Land Commissioner January 29, 1910, which merely shows what goes with these papers. Then follow the patents, the various patents in final form.

The CHAIRMAN. Are they signed or are they simply blank?

Mr. BRANDEIS. The patents are not signed, I think, any of them [After looking over them.] No, sir; they are not signed.

The final drafts and memorandum are as follows:

Land office, Juneau, Alaska: Kind of cases, coal; No. of case, 1. Received 1-20-08. "N" list 197. Lot No. 521. 5-2593. Withdrawn by Div. "N" Jany. 23, 1908. Suspd.

Land office, Juneau, Alaska: Kind of cases, coal; No. of cases, 2. Received 1-13-08. "N" list 196. Lot No. 465. 3-2586. 22-2587. Withdrawn by Div. "N" Jany. 23, 1908. Suspd. Written by Trimble 1-8-08.

Land office, Juneau, Alaska: Kind of cases, coal; No. of cases, 6. Received 1-6-08. "N" (from suspen). Lot No. 434. 17-2564. 19-2565. 21-2566 (from suspensor 23-2567. 28-2568 should be 2569. 29-2570. Withdrawn by Div. "N" Jany. 23, 1908. Suspd. Written by S. P. Trimble; examined by Miss Patterson.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 29, 1910.

Address only the
Commissioner of the General Land Office.

Juneau (Alaska) coal cases to division "B" from "N" to be patented.

Entry No.	L. O. No.	Rec'd in Div. "B."
17.....	2584.....	Oct. 25, 1907
19.....	2565.....	" " "
21.....	2566.....	" " "
23.....	2567.....	" 28, "
26.....	2569.....	Nov. 4, 1907
29.....	2570.....	" " "
Withdrawn by division "N".....		" 5, "
Returned to division "B".....		Jan. 6, 1908
And again withdrawn by division "N".....		Jan. 23, "
5.....	2593.....	Jan. 5, "
3.....	2586.....	" 13, "
22.....	2587.....	" " "
Also withdrawn by division "N".....		Jan. 23, 1908

General Land Office,
No. 2564.

4-401 M-ty.

Coal certificate,
No. 17.

THE UNITED STATES OF AMERICA,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas, in pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of April 28, 1904, there has been deposited in the General Land Office of the United States a certificate of the register of the land office at Juneau, Alaska, whereby it appears that

WILLIAM E. MILLER

did, on the 11th day of April, 1907, enter and pay for the lands embraced in United States coal land survey No. 61, known as the Tulare coal claim in the Kayak recording district, Alaska, being more particularly described as follows, with magnetic variation as hereinafter stated:

Beginning at corner No. 1, identical with corner No. 4 of the Thutocrat survey No. 59, which falls in deep canyon and not established, from which U. S. location monument No. 7 bears north eighty-seven degrees, eighteen minutes, fourteen seconds east twenty-six and fifteen-hundredths chains distant;

Thence, first course, magnetic variation twenty-nine degrees, forty-five minutes east, south on east line two and thirty-eight-hundredths chains to witness corner to corner No. 1, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of stone, marked W. C. corner No. 1 Tulare on southeast face, from which U. S. location monument No. 7 bears north eighty-two degrees, seven minutes, fifty-two seconds east, twenty-six and thirty-seven-hundredths chains distant. Thirty-nine and eighty-eight-hundredths chains to corner No. 2, a spruce post three feet long, four inches square, set eighteen inches in ground, with mound of earth, marked Cor. No. 2 Tulare on northeast face;

Thence, second course, magnetic variation twenty-nine degrees, thirty minutes east, east on south line thirty-nine and ninety-hundredths chains to corner No. 3, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of stone, marked Cor. No. 3 Tulare on the northwest face;

Thence, third course, magnetic variation twenty-nine degrees, thirty-five minutes east, north on inaccessible east line thirty-nine and eighty-nine-hundredths chains to corner No. 4, which fall on steep slope not established;

Thence, fourth course, magnetic variation twenty-nine degrees, thirty minutes east, west on inaccessible north line thirteen and nineteen-hundredths chains to witness corner to corner No. 4, a hemlock post four and one-half feet long, four inches square, set eighteen inches in ground, with mound of earth, marked W. C. cor. No. 4 Tulare on southwest face, from which U. S. location monument No. 7 bears north twenty-seven degrees, seven minutes, seventeen seconds west, one and thirty-eight-hundredths chains

distant. Thirty-nine and ninety-four hundredths chains to corner No. 1, the place of beginning, containing one hundred fifty-nine and two hundred forty-one thousandths acres of land, more or less, as shown by the official plat of the survey of said land returned to the General Land Office by the surveyor-general:

Now know ye, That the United States of America, in consideration of the premises, and in conformity with said acts of Congress, have given and granted, and by these presents do give and grant, unto the said William E. Miller, and to his heirs, the said tract above described; to have and to hold the same together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said William E. Miller, and to his heirs and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof, I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the — day of —, in the year of our Lord one thousand nine hundred and —, and of the independence of the United States the one hundred and —.

By the President: —.

By —, Secretary.

Recorder of the General Land Office.

Recorded Vol. Page .

General Land Office,
No. 2565.

4-401 M-ty.

Coal Certificate
No. 19.

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas, in pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of April 28, 1904, there has been deposited in the General Land Office of the United States a certificate of the register of the land office at Juneau, Alaska, whereby it appears that

B. C. RIBLET

did, on the 11th day of April, 1907, enter and pay for the lands embraced in United States coal land survey No. 68, known as the Clear coal claim, in the Kayak recording district, Alaska, being more particularly described as follows, with magnetic variation twenty-nine degrees, forty minutes east:

Beginning at corner No. 1, a hemlock post three and one-half feet long, four inches in ground with mound of earth, marked cor. No. 1 clear, on northwest face, identical with corner No. 3 of the Tampa survey No. 66, from which U. S. location monument bears north fifty-eight degrees, four minutes, fifty-five seconds east, seventy-seven and seventy-six-hundredths chains distant;

Thence, first course, north on east line thirty-nine and eighty-nine-hundredths chains to corner No. 2, a hemlock post three and one-half feet long, four inches square set eighteen inches in ground, with mound of earth, marked corner No. 2 clear, on southwest face, from which U. S. location monument No. 7 bears north eighty-eight degrees, fifty-six minutes east, sixty-six and five-hundredths chains distant;

Thence, second course, west on north line thirty-nine and eighty-eight-hundredths chains to corner No. 3, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of earth, marked corner No. 3 clear on the southeast face;

Thence, third course, south on west line thirty-nine and ninety-two-hundredths chains to corner No. 4, which falls in gulch and not established, from which witness corner to corner No. 4, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of stone, marked cor. No. 4 clear on northeast face bearing south twenty-one-hundredths of a chain distant;

Thence, fourth course, east from true corner on south line thirty-nine and ninety-hundredths chains to corner No. 1, the place of beginning, containing one hundred fifty-nine and two hundredth one thousandths acres of land, more or less; as shown by the Official Plat of the survey of the said land returned to the General Land Office by the surveyor-general:

Now know ye, that the United States of America, in consideration of the premises and in conformity with said acts of Congress, have given and granted, and by these presents do give and grant, unto the said B. C. Riblet and to his heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said B. C. Riblet and to his heirs and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the — day of —, in the year of our Lord one thousand nine hundred and eight and of the Independence of the United States the one hundred and thirty-second.

By the President: ———.

By ———, Secretary.

Recorder of the General Land Office.

General Land Office,
No. 2566.

4-401 M-ty.

Coal Certificate
No. 21.

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas, in pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of April 28, 1904, there has been deposited in the General Land Office of the United States a certificate of the register of the land office at Juneau, Alaska, whereby it appears that

ALFRED PAGE

did, on the 11th day of April, 1907, enter and pay for the lands embraced in United States coal land survey No. 64, known as the Boston coal claim, in the Kayak recording district, Alaska, being more particularly described as follows, with magnetic variation as hereinafter stated:

Beginning at corner No. 1, a spruce post three feet long, four inches square, set eighteen inches in ground, with mound of earth, marked cor. Boston on southeast face, identical with corner No. 2 of the Tulare survey No. 61, from which U. S. location monument No. 7 bears north thirty-two degrees, twenty-five minutes, fifty seconds east, forty-eight and seventy-one-hundredths chains distant;

Thence, first course, magnetic variation twenty-nine degrees, forty minutes east, south on west line thirty-nine and eight-tenths chains to corner No. 2, on precipitous slope and not established, from which witness corner to corner No. 2, a sandstone rock 24 x 9 x 5 inches, set twelve inches in ground, with mound of stone, marked with cross (X) at corner point and W. C. corner No. 2 Boston on northeast face, bears west on south line prolonged ninety-eight links distant;

Thence, second course, magnetic variation twenty-nine degrees, forty minutes east, east on south line thirty-nine and nine-tenths chains to corner No. 3, in creek flat and not established, nine and sixty-four-hundredths chains west on same line established witness corner to corner No. 3, a hemlock post three and one-half feet long, four inches square, set eighteen inches in ground, with mound of earth, marked W. C. cor. 3 Boston on north face;

Thence, third course, magnetic variation twenty-nine degrees, thirty minutes east, north from true corner on east line nine and seventy-eight-hundredths chains to corner No. 4, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of stone, marked cor. 4 Boston on southwest face;

Thence, fourth course, magnetic variation twenty-nine degrees, thirty-five minutes east, west on inaccessible north line thirty-nine and nine-tenths chains to corner No. 1, the place of beginning, containing one hundred fifty-eight and seven-hundred and sixty-two thousandths acres of land, more or less, as shown by the Official Plat of the survey of said land returned to the General Land Office by the surveyor-general:

Now know ye, that the United States of America, in consideration of the premises and in conformity with said acts of Congress, have given and granted, and by these presents do give and grant, unto the said Alfred Page and to his heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Alfred Page, and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the — day of —, in the year of our Lord one thousand nine hundred and eight and of the Independence of the United States the one hundred and thirty-second.

By the President: _____.

By _____, Secretary.

Recorder of the General Land Office.

General Land Office
No. 2567.

4-401 M-ty.

Coal Certificate
No. 23.

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas in pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of April 28, 1904, there has been deposited in the General Land Office of the United States a certificate of the register of the land office at Juneau, Alaska, whereby it appears that

FREDERICK BURBIDGE

did, on the 23rd day of April, 1907, enter and pay for the lands embraced in United States Coal Land Survey No. 43, known as the Deposit coal claim, in the Kayak recording district, Alaska, being more particularly described as follows, with magnetic variation as hereinafter stated:

Beginning at corner No. 1, identical with corner No. 2 of the Lobster survey No. 41, in deep canyon, and not established, from which U. S. location monument No. 6 bears north thirteen degrees eighteen minutes east, forty-eight and ninety-five-hundredths chains distant. A witness corner to corner No. 1, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of stone, marked W. C. Cor. 1 Deposit on the southeast face, bears north on west line prolonged one and sixty-six-hundredths chains distant;

Thence, first course, magnetic variation twenty-nine degrees from true corner on north line, forty minutes east, east thirty-nine and eighty-eight-hundredths chain to corner No. 2, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of earth, marked Cor. 2 Deposit on the southwest face;

Thence, second course, magnetic variation twenty-nine degrees forty-two minutes east, south on east line thirty-nine and eighty-eight-hundredths chains to corner No. 3, a hemlock post three feet long, four inches square, set eighteen inches in ground with mound of earth, marked Cor. 3 Deposit on the northwest face;

Thence, third course, magnetic variation twenty-nine degrees fifty minutes east west on south line thirty-nine and nine-tenths chains to corner No. 4, in hole, and not established, thence north on west line ascending four-hundredths chains to witness corner to corner No. 4, a spruce post three feet long, four inches square, set eighteen inches in ground, with mound of earth, marked W. C. Cor. 4 Deposit on the northeast face;

Thence, fourth course, magnetic variation twenty-nine degrees thirty-five minutes east, north on west line thirty-nine and ninety-two-hundredths chains to corner No. 1, the place of beginning, containing one hundred fifty-nine and one hundred sixty-one thousandths acres of land, more or less, as shown by the official plat of the survey of said land returned to the General Land Office by the surveyor-general:

Now know ye that the United States of America, in consideration of the premises, and in conformity with said acts of Congress, have given and granted, and by these presents do give and grant, unto the said Frederick Burbidge and to his heirs, the said tract above described; to have and to hold the same together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Frederick Burbidge, and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof, I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the — day of —, in the year of our Lord one thousand nine hundred and —, and of the Independence of the United States the one hundred and —.

By the President: _____

By _____, Secretary.

Recorder of the General Land Office.

Recorded Vol. Page

General Land Office
No. 2569.

4-401 M-ty.

Coal certificate
No. 28.

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas in pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of April 28, 1904, there has been deposited in the General Land Office of the United States a certificate of the register of the land office at Juneau, Alaska, whereby it appears that

WALTER B. MOORE

did, on the 23rd day of April, 1907, enter and pay for the lands embraced in United States coal land survey No. 69, known as the Bedford coal claim, in the Kayak recording district, Alaska, being more particularly described as follows, with magnetic variation as hereinafter stated:

Beginning at corner No. 1, on precipitous slope, and not established, identical with corner No. 2 of the Bozeman survey No. 67, from which U. S. location monument No. 7 bears north seventeen degrees fifty-three minutes and twenty-eight seconds east, eighty-five and two-hundredths chain distant;

Thence, first course, magnetic variation twenty-nine degrees forty minutes east, west on north line ninety-eight-hundredths of a chain to witness corner to corner No. 1, a sandstone rock 24 x 9 x 5 inches, set twelve inches in ground, with mound of stone, marked with cross (X) at corner point and W. C. Cor. 1 Bedford on the southwest face, from which U. S. location monument No. 7 bears north eighteen degrees thirty-one minutes east, eighty-five and thirty-three-hundredths chains distant, and U. S. location monument No. 6 bears north fifty-nine degrees eighteen minutes forty-six seconds west, one hundred and seventy-one and forty-one-hundredths chains distant, thirty-nine and nine-tenths chains to corner No. 2, a hemlock post three and one-half feet long, four inches square, set eighteen inches in ground, with mound of earth, marked Cor. 2 Bedford on the southeast face;

Thence, second course, magnetic variation twenty-nine degrees thirty-five minutes east, south on west line thirty-nine and ninety-two-hundredths chains to corner No. 3, a hemlock post three feet long, four inches square, set eighteen inches in ground, with mound of stone, marked Cor. 3 Bedford on the northeast face;

Thence, third course, magnetic variation twenty-nine degrees forty minutes east, east on south line thirty-nine and eighty-three-hundredths chains to corner No. 4, a hemlock post three feet long, four inches square, set eighteen inches in ground with mound of earth, marked Cor. 4 Bedford on the northwest face. Thirty-nine and ninety-five-hundredths chains to corner No. 1, the place of beginning, containing one hundred fifty-nine and two hundred one-thousandths acres of land, more or less, as shown by the official plat of the survey of said land returned to the General Land Office by the Surveyor-General:

Now know ye that the United States of America, in consideration of the premises, and in conformity with said acts of Congress, have given and granted, and by these presents do give and grant, unto the said Walter B. Moore and to his heirs, the said tract above described; to have and to hold the same together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Walter B. Moore, and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof, I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the — day of —, in the year of our Lord one thousand nine hundred and —, and of the Independence of the United States the one hundred and —.

By the President: _____

By _____, Secretary.

Recorder of the General Land Office.

Recorded Vol. Page

General Land Office,
No. 2570.

4-401 M-ty.

Coal Certificate
No. 29.

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas, in pursuance of the Revised Statutes of the United States, and the act of June 6, 1900, as amended by the act of April 28, 1904, there has been deposited in the General Land Office of the United States a certificate of the register of the land office at Juneau, Alaska, whereby it appears that

ARTHUR D. JONES

did, on the 23rd day of April, 1907, enter and pay for the lands embraced in United States Coal Land Survey No. 70, known as the Calais coal claim in the Kayak recording district, Alaska, being more particularly described as follows, with magnetic variation as hereinafter stated:

Beginning at corner No. 1, a hemlock post three and one-half feet long, four inches square, set eighteen inches in ground, with mound of earth, marked Cor. 1 Calais on the southwest face, identical with corner No. 1 of the Clear Survey No. 68, from which U. S. location monument No. 7 bears north fifty-eight degrees four minutes fifty five seconds east seventy-seven and seventy-six-hundredths chains distant;

Thence, first course, magnetic variation twenty-nine degrees forty minutes east west on north line thirty-nine and nine-tenths chains to corner No. 2, in gulch and not established;

Thence, second course, magnetic variation twenty-nine degrees forty minutes east south on west line twenty-one-hundredths chains to witness corner to corner No. 2, a hemlock post three feet long, four inches square, set eighteen inches in ground with mound of stone, marked W. C. corner 2, Calais, on southeast face. Thirty-nine and ninety-four-hundredths chains to corner No. 3, a hemlock post three feet long four inches square, set eighteen inches in the ground, with mound of earth, marked Cor. 3 Calais on northeast face;

Thence, third course, magnetic variation twenty-nine degrees forty minutes east, east on south line thirty-nine and eighty-six-hundredths chains to corner No. 4, a hemlock post three and one-half feet long, four inches square, set eighteen inches in the ground, with mound of earth marked Cor. No. 4 Calais on northwest face;

Thence, fourth course, magnetic variation twenty-nine degrees thirty minutes east, north on east line thirty-nine and eighty-six-hundredths chains to corner No. 1, the place of beginning, containing one hundred fifty-nine and one hundred twenty-one thousandths acres of land, more or less, as shown by the official plat of the survey of said land returned to the General Land Office by the surveyor-general:

Now know ye, that the United States of America, in consideration of the premises and in conformity with said acts of Congress, have given and granted, and by these presents do give and grant, unto the said Arthur D. Jones and to his heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Arthur D. Jones, and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof I, Theodore Roosevelt, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the — day of —, in the year of our Lord one thousand nine hundred and eight and of the Independence of the United States the one hundred and thirty-second.

By the President: —

By —, Secretary.

Recorder of the General Land Office.

Mr. BRANDEIS. I now introduce Mr. Glavis's daily reports covering the period I read to you—I introduced—before, but read the report for January 12, 13, 14, 15, 16, and 17. I will call your attention to them. I do not know that it will be necessary to read them.

The CHAIRMAN. Of what year?

Mr. BRANDEIS. Of the year 1908, which shows that he was absent from Portland at that time. The gentlemen will remember it was stated that that letter of notification probably reached him by the 12th and the witness did not know whether he was there at that time, the letter not having been answered until the 22d. I call your attention to the daily reports for those days, showing that he was absent in Portland, Oreg., and elsewhere in connection with the trials of certain cases and did not return to his office until the 18th. On the 18th he reports—18th, 19th, 20th, and 21st—being attending to current work of office, reading accumulated mail, dictating 20 or 30 letters, as the case may be.

The committee will remember in the testimony, pages 145 and 146, that I called the attention of the witness Glavis to the statement of Attorney-General Wickersham in his report to the effect that the witness never took any action whatever in relation to the bringing of the criminal proceedings which he advised the Land Office must be brought before October 14, 1908, to escape the bar of the statute of limitations. The witness answered that he had called attention to that; he had taken the matter up with United States Attorney Todd. Todd had made a report to him and that report had been transmitted, Todd's report had been transmitted, to the General Land Office.

I now want to introduce the letter of Elmer E. Todd, May 18, 1908, which is the report upon those cases. I think the whole letter should go into the record.

(The letter is as follows:)

DEPARTMENT OF JUSTICE,
OFFICE OF UNITED STATES ATTORNEY,
WESTERN DISTRICT OF WASHINGTON,
Seattle, May 18, 1908.

Hon. LOUIS R. GLAVIS,
Chief of Field Division, General Land Office,
Portland, Oreg.

SIR: I have examined the affidavits of witnesses, and the original filings of the 75 coal claims known as the Great Western Group, north of Behring Lake near Katalla, Alaska, with reference to a criminal prosecution to be commenced in the western district of Washington, and I am of the opinion that this matter should not be presented at this May term of the grand jury, but should first be referred to the General Land Office at Washington, D. C., and if they think a criminal prosecution should be commenced it should be taken up by the grand jury which will convene in Tacoma on July 7, 1908.

It appears from the papers and affidavits in the case that sometime in the spring of 1904 about the time the Alaska coal-land law was passed, C. Christopher, M. C. Sweeney, George Simmons, and W. N. Letcher conceived the idea of locating these claims under the provisions of that act. During the month of May, 1904, they secured from a large number of persons powers of attorney to Christopher and Simmons, authorizing them as attorneys in fact to locate mining claims, oil and coal lands in the district of Alaska, and giving them general powers to sell the same. Most of these powers of attorney were given by persons in Seattle, Wash., some by persons in California, Ohio, Illinois and Alaska. Subsequently other powers of attorney were given as late as September 1905. Under these powers of attorney 75 coal claims were located, and thereafter declaratory statements were filed in the United States land office at Juneau, Alaska nearly all of the declaratory statements being filed in the fall of 1905. No patents have ever been issued upon these claims, and with only one or two exceptions the stand in the name of the parties who gave the powers of attorney. In some instances an assignment of the rights of the locator appears to have been placed on file in the recorder's office. It was the avowed intention of Christopher and his associates, agreed by them with the parties giving the powers of attorney, to sell the rights the locators and divide the profits between the locators and their attorneys in fact. I am of the opinion, though there is no specific evidence at hand to prove it, that was the intention of Christopher to sell these claims to some large corporation doing business in Alaska, for the reason that Christopher appears to be associated all the way through with some of these corporations, and a large amount of money has been spent by them in developing these claims, or some of them.

The question is now presented to me as to whether a criminal prosecution should be instituted, and whether it could be maintained. It has been suggested that prosecution could be brought against these people for procuring false affidavits under section 4746 of the Revised Statutes, as amended by the act of July 7, 1898 (Chap. 578, 30 Statutes at Large, p. 718). The only affidavits procured were the affidavits the declaratory statements, and the only portion of those declaratory statements which could be claimed to be false is the statement that the locator caused to be expended labor and improvement on the claim located certain amounts of money—in most instances the sum of \$250—but inasmuch as the locators gave a general power of attorney to locate coal claims, and do all acts necessary to be done in and about the premises and the Alaska coal-land act gives the right of location only to those who have opened or improved a coal mine, and as the agents of the locators will maintain that they did spend the sum of money set out in these declaratory statements, I do not think it could be successfully maintained that the statements that these locators caused these sums of money to be expended could be proved to be false or fraudulent. Personally I am of the opinion that under the Alaska coal-land act only a location notice is required in order to locate a coal claim in Alaska. I think that this does not comply with the requirements of the declaratory statement provided for in the general coal-land act. The regulations of the department now require a notice of location, which must be sworn to, but in view of the recent decision in the Williamson case, I am of the opinion that the courts would hold that the affidavit thus required by the department is not authorized by law. For these reasons I do not think the prosecution should be instituted or could be maintained under section 4746 Revised Statutes as amended.

If any prosecution is to be sought, I am of the opinion that it should be one to prosecute a conspiracy to defraud the United States of its public lands. This conspiracy was entered into in the spring of 1904, and the first overt act was done in May, 1904; but since that time there have been other overt acts which have been committed within the last three years; probably the last of these were in December, 1905, so far as the evidence now shows. The conspiracy was probably entered into in the western district of Washington, and overt acts were subsequently done in that district and in California, Ohio, Illinois, and Alaska, the offense being consummated in the district of Alaska. The prosecution, therefore, could be in the western district of Washington or in the proper district in Alaska. The evidence so far shows that the arrangement was to locate these claims and sell them at a profit, to be divided between the locators and the promoters, the proportion to be left to the discretion of the promoters. This appears to be in direct violation of the intention of the coal-land laws, which provide that a person can locate but one coal-land claim. Affidavits of a number of locators who live in Seattle have been presented to me in which they state that they located these claims simply as a matter of accommodation to the promoters. I think before final action is taken further investigation should be made outside of Seattle to obtain testimony from other locators as to what the arrangement was with the promoters.

The federal grand jury meets in Seattle May 19, 1908, and as I have about thirty matters to present to that grand jury, including two murder cases, I can not at this time give this matter the attention which it should have.

No prosecution has heretofore been brought to punish persons locating coal lands under the Alaska coal-land act. If this is instituted, it will be the first of its kind, and I think that a matter of such importance as this should be referred to the General Land Office for its consideration, especially since they have ample time to do that.

It has been suggested by the United States attorney for the eastern district of Washington, in a similar case, that the conspiracy having been entered into prior to March 2, 1905, upon which date the act dividing the district of Washington into two judicial districts was approved (33 Stat. L., chap. 1305, p. 824), a question arises as to whether a prosecution should not be instituted in the old district of Washington, in which case a special grand jury for the old district would have to be called. No grand jury for the old judicial district has been called since June 7, 1905.

Respectfully,

ELMER E. TODD,
United States Attorney.

Mr. VERTREES. Did I understand you to say that that had been sent?

Mr. BRANDEIS. I do not know whether this particular paper has been sent or not.

Mr. VERTREES. I call your attention to Glavis's testimony at page 146.

Mr. BRANDEIS. He says he talked it over with Mr. Dennett.

Mr. VERTREES. Look at page 146.

Mr. BRANDEIS. I presume it must have reached the General Land Office as the General Land Office has furnished it to us.

Mr. VERTREES. The question of time now is the material point we want.

Mr. BRANDEIS. It is of no significance, except that Attorney-General Wickersham said that the witness had not attended to this matter and the record shows very clearly he had.

Mr. VERTREES. Please read page 146—the witness's own statement on that.

Mr. BRANDEIS. I will be glad to. I asked him about it, "What are the facts?" I quote the statement, and then say: "Is that true?" The witness says: "No; it is not true." Then I asked the question, "What are the facts?" and Mr. Glavis says:

Mr. GLAVIS. It is absolutely false. In May or April, 1908, I had Special Agent Jones call upon—

Senator ROOT. Will it be necessary to read that again and have it go into this record? I think not.

Mr. VERTREES. No, sir.

Senator ROOT. We have it in the record once.

Mr. BRANDEIS. I desire at this point to introduce some more of the Glavis daily reports, but as they have not been examined I wish to introduce them later. I, however, wish now to call the attention of the committee to one letter of considerable importance which Mr. Vertrees did not introduce, in connection with the cross-examination of the witness on whether or not the Cunningham group had elected not to avail themselves of the new law. The gentlemen will remember that the witness, Glavis, said that they did elect on the 29th day of June, as he was notified by telegraph of Attorney-General Wickersham's opinion. Mr. Vertrees called attention to the statement in the letter of October 7, 1908, in which it is stated that they had informally notified the office that they would go on under the old law. I desire now to call the attention of the committee to the letter of the commissioner to Miles C. Moore, which appears in the compilation on page 197, and which is dated May 22, 1909, which is just three days after the Pierce opinion, and three days before the matter was referred to the Attorney-General, and it reads thus:

MAY 22, 1909.

Hon. MILES C. MOORE, *Walla Walla, Wash.*

In reply to your inquiry you are advised that application to consolidate individual pending coal entries in Alaska, under the act of Congress approved May 11, 1908, may be filed at any time prior to July 11, 1909. Your attention is called to marked paragraph of the circular of July 11, 1908, on page 21 of the inclosed coal circular.

Very respectfully,

Commissioner.

Mr. JAMES. I thought that law was May 28, 1908. You first read it May 11.

Mr. BRANDEIS. It is so in this letter. It may be a typographical error. There are a number of them. It was May 28. I desire now to introduce the 21 or 24 letters, I am not sure of the number, Mr. Vertrees, which you exhibited to the witness, and which are said to be and undoubtedly are part of the letters which Mr. Bowman brought from Alaska. I think these letters should all go into the record fully, but—

The CHAIRMAN. Are those the 24 letters that were sent by Mr. Christensen by mail?

Mr. BRANDEIS. Yes, sir.

The CHAIRMAN. They were sent, not by Mr. Bowman, but by Mr. Christensen by mail.

Mr. BRANDEIS. They are described as letters which Mr. Bowman—part of a very large number of letters which Mr. Bowman brought from Alaska in the summer of 1909. They are part of a larger number. These specific ones were exhibited to the witness the other day, and I want them to go into the record.

The CHAIRMAN. Those are the letters that Mr. Christensen sent here, are they not?

Mr. BRANDEIS. Yes, sir.

Mr. VERTREES. I think 23 is the number.

Mr. BRANDEIS. Whatever the exact number is.

(The letters referred to are as follows:)

R. A. Ballinger.
J. T. Ronald.
Alfred Battle.
A. J. Tennant.

Law offices
BALLINGER, RONALD, BATTLE & TENNANT
Rooms 901-906 Alaska Building.

Cable address
"Balronbat"
Western Union
code used.

J. L. Corrigan.

Received Dec. 29, 1908. Answered Dec. 29, 1908.

SEATTLE, Wash., December 23, 1908.

REGISTER AND RECEIVER, U. S. LAND OFFICE,
Juneau, Alaska.

GENTLEMEN: As representing Mr. W. G. Whorf, he has informed me that he has heretofore left with you for filing, his notice and declaration in his coal entry at Port Graham. Upon his stating to me that you were unwilling to file the same on account of your uncertainty as to the attitude of the department in such cases, the time having elapsed within which they should have been filed and the original papers having been lost in the mails, I communicated immediately with the Commissioner of the General Land Office, furnishing him affidavits of the loss of the original papers in the mails, and have received word by telegram, as well as by letter, from the commissioner, to the effect that you would be requested to accept for filing, nunc pro tunc, Mr. Whorf's papers. I also have a copy of the letter addressed to you by the Commissioner of the General Land Office, of date December 17th, covering the attitude of the commissioner in this respect.

Mr. Whorf leaves here on the 31st for Juneau, and will re-present to you for filing the notice and declaration, and he desires to make his entry and carry the same to patent as speedily as possible. I will very much appreciate your diligent attention to this matter, and will request that you advise Mr. Whorf fully as to the details necessary to pursue to secure patent in his entry, all of which will be duly appreciated.

I inclose herewith copy of letter from the commissioner of December 17th, transmitting copy of letter to you in this matter for your information.

Yours very sincerely,

R. A. BALLINGER.

[Copy.]

DECEMBER 17, 1908.

HON. R. A. BALLINGER,
Seattle, Wash.

MY DEAR JUDGE: Referring to your letter of December 11, 1908, and my telegram of to-day, relative to case of W. G. Whorf, coal survey 315, I inclose herewith copy of my letter to the local land officers at Juneau, Alaska. Unless you desire them returned, I shall retain the affidavits you inclosed for filing with the record when it reaches this office.

Very respectfully,

[Signed.]

FRED DENNETT, Commissioner.

[The Rainier-Grand Hotel, Wilson & White Company, proprietors, Chas. Perry, manager.]

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SEATTLE, September 26, 1907.

REGISTER AND RECEIVER U. S. LAND OFFICE,
Juneau, Alaska.

DEAR SIR: I returned yesterday from Katalla where I have been for the past month. At that point I received your letter of July 27 addressed to me at the Hotel Cecil, in this city, which some one was good enough to forward, calling upon me for the return of our plats of surveys numbered from 1 to 30.

This was the first intimation I had that the Government ever required return of plats after posting, but I have them all with me and will send them by express to you on the first steamer.

I regret this delay, for as neither Mr. Chezum nor Mr. Hartline have informed me of having any communication from you I was in perfect ignorance of your requirements until the receipt of your letter at Katalla.

Yours very truly,

CLARENCE CUNNINGHAM.

[272. Ans. 12/19/09. I took no imp. of the ans. to this letter.]

[The Rainier-Grand Hotel; Wilson & White Co., proprietors; Chas. Perry, manager.]

SEATTLE, December 11, 1907.

Mr. P. M. MULLEN, Juneau, Alaska.

My DEAR MR. MULLEN: I just received the last receipts issued by your office, for coal land entries and they have been mailed to their respective owners.

As I was advised by you that whatever balance remained over would be held until further orders, I have notified each of our claim owners that this sum would be placed to the credit of the common funds, making everyone pay an equal amount into the treasury for his claim.

I expected definite news about our patents upon my return from the North, but so far it seems nothing has been heard. Governor Moore agreed to go to Washington, but he has been delayed on account of his bank matters, so we may be compelled to make other arrangements.

If you can give me any tips as to the best method for pulling those patents out of the Land Office, I will show you a way to get busy very quickly, in our coal matters. With very kind regards to Mrs. Mullen and family, I am

Yours very truly,

CLARENCE CUNNINGHAM.

Form 125—1906]

[Signal Corps, U. S. Army. Telegram. Received at 1181 EN X N 16 Paid.]

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REGISTER AND RECEIVER, UNITED STATES LAND OFFICE,
Juneau.

SEATTLE, January 8, 1908.

Plats have not arrived could we not send your copies to Washington and replace when finished.

CLARENCE CUNNINGHAM.

10.05a

[The Rainier-Grand Hotel, Wilson & White Co., proprietors, Chas. Perry, manager.]

SEATTLE, March 10, 1908.

Mr. J. W. DUDLEY, Juneau, Alaska,

MY DEAR MR. DUDLEY:—I am not certain that I acknowledged receipt of your letter of instructions received some time ago, in connection with our railroad surveys. As suggested by you, I had new plats made covering the tide lands over which we desire to run. These maps also contain profile of railroad to the coal fields with plan of trestle, also terminal and bunker plans. These I have forwarded to the Secretary of War with the request for speedy action. New plats for the railroad are being prepared as it would have been nearly impossible to change the affidavits as required under your instructions, on the old maps. Mr. Hawkins promised to have them completed before this but has been laid up for a few days, but I will forward them to you on the next steamer. Will also file our incorporation papers and take all necessary steps to entitle us to do business in Alaska.

There does not seem to be very much information as to the new work planned in the north this year but everyone thinks there will be great things doing in railroad circles in the near future.

Thanking you for your kindness in trying to straighten us out in the railroad matter, and hoping to see you soon, I am

Yours very truly,

CLARENCE CUNNINGHAM.

[Clarence Cunningham.]

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REGISTER AND RECEIVER, UNITED STATES LAND OFFICE,
Juneau, Alaska.

SEATTLE, WASH., March 14, 1908.

GENTLEMEN: I send you herewith corrected maps and field notes, together with terminal plats, for the Bering River Railroad Company, as required by you, with corrections as outlined in your letters of instruction.

I very much regret that Mr. Hubbell got away without acknowledging his signature on these documents. He signed them on the boat, just before leaving, and thought the notary who had taken his former acknowledgments would recognize his signature and acknowledge these papers accordingly; but the matter is too important for us to take any such chances. I just wired him, at Juneau, to acknowledge his signature before you, and trust you will find everything in order to put seals on the papers when they arrive.

Have written for certified copies of our articles of incorporation and will forward same as soon as they are sent to me by the Secretary of State, and then if we get permission from the Secretary of War to cross the tide flats, I hope our proceedings will be entirely regular and in order.

[#2 Register & Receiver, U. S. Land Office, Juneau.]

I find that our old time friend, Clark Davis, has slipped a number of oil locations over our terminal, on both sides of the channel and expects to have a large supply of oil there, in the near future. Of course, you will readily understand how much trouble such fellows make for me and it requires a large shovel to get them out of the way and keep moving.

If I have omitted anything that is necessary in the case that is before us, I will be very much obliged if you will kindly advise me and I will endeavor to comply with requirements immediately, as it is now time when we hope to take active steps.

I have no further news relating to our patents, but will have the question up with Judge Ballinger within a few days and will endeavor to get some information about our titles.

With kind regards, I am yours very truly,

CLARENCE CUNNINGHAM.

[Clarence Cunningham.]

SEATTLE, WASHINGTON, *March 19, 1908.*

REGISTER AND RECEIVER, UNITED STATES LAND OFFICE,
Juneau, Alaska,

GENTLEMEN:—I was unable to get our maps in the express office before closing time the other evening and so sent them through Mr. Epstein who delivered them to a friend and I hope they have reached you safely and are in strict accordance with the department's requirements.

Am sending you, by this mail, certified copies of our articles of incorporation, to be filed in the district. I do not know just who is the proper person to receive them so am sending them to you with the request that you have them filed with the proper officer.

We have no recent news in either railroad or title matters, so are simply awaiting developments.

Hoping to hear from you on receipt of these maps and papers, I am

Yours very truly,

CLARENCE CUNNINGHAM.

[Clarence Cunningham.]

SEATTLE, WASHINGTON, *April 13, 1908.*

428—4/20/08—Sent cks
Mr. P. M. MULLEN, *Juneau, Alaska,*

DEAR MR. MULLEN: I inclose you herewith check and receipts that were received from Mr. J. H. Neill. Also receipt from Mr. W. B. Moore. I will ask you to send checks for both amounts either to the parties named or to me at this hotel.

I have no news since my last and as Mr. Epstein is going north to-night will not try to manufacture any.

With kind regards, I am very truly,

CLARENCE CUNNINGHAM.

[Clarence Cunningham.]

SEATTLE, WASHINGTON, May 9, 1908.

Mr. J. W. DUDLEY, Juneau, Alaska,

MY DEAR MR. DUDLEY: I am just in receipt of a letter from S. V. Proudfit, Assistant Commissioner, relative to our railroad article, stating that you have been advised of the omission to send some necessary papers and certain certificates. Also stating that you had advice from me that we did not comply with chapter 23, title 3 of the act of June 6, 1900.

I was under the impression that everything required had been transmitted to your office. In fact, both our engineers, Hawkins and Hubbell, checked over the papers and if there were any certificates missing I was not aware of it.

Will you kindly advise me just what is required; also prepare, if you have the time, such papers, so we will have everything correct and I will cheerfully pay you for the extra trouble and expense incurred. Please advise me at your earliest convenience and oblige

Yours truly,

CLARENCE CUNNINGHAM,
St. Paul Apartments Seattle.

[Practice in all courts and U. S. Land Office.]

Ans. June 18, 08.]

[James D. Finch, Attorney at Law.]

CARSON CITY, NEVADA, June 3, 1908.

REGISTER U. S. LAND OFFICE,
Juneau, Alaska.

DEAR SIR: Inclosed herein I send you amended location papers of the Finch coal claim, situate in the Kayak Recording District of Alaska, discovered and located September 8, 1906. This claim was located for me by F. A. Morrow, my attorney in fact. This claim adjoins the Orval coal claim on the east.

I also inclose postal money order for \$3, which I am informed will cover your charges for recording these papers.

Please forward the papers to Harry White, Butler Hotel, Seattle, Washington, as soon as you have recorded them and let him or me know if there are any additional charges for such recording.

Kindly acknowledge receipt of these papers and this letter and advise me of your action in the matter.

Very truly yours,

JAMES D. FINCH.

Clay Allen.

ALLEN AND FRENCH
Lawyers
American Bank Building
Seattle, Washington.

Walter M. French.

[Received Apr. 27, 1909. Answered Apr. 27, 1909.]

APRIL 19, 1909.

Hon. JOHN W. DUDLEY,
Juneau, Alaska.

DEAR SIR: Mr. Hartline, as agent of certain parties locating coal claims in the district of Alaska, has I understand, just completed the surveys and will shortly present them for approval. While in Juneau he will probably examine the records of your office as to titles with especial reference to a contract of sale entered into by him May 18, 1907.

Mr. Harriman, whom I represent, has on several occasions taken the matter of sale up with Judge Ballinger, whose firm represented the purchasers, and with whom Mr. Hartline and the parties have at all times seemed to be in perfect accord. I have recently been told that Mr. Hartline might not live up to his contract willingly and while both Mr. Harriman and Judge Ballinger seem satisfied that he will do so, yet I would appreciate it if you would inform me if the records of your office show such an interest in these lands to have been transferred by this option that specific performance could be enforced.

Thanking you in advance for this information, I am,
Very truly yours

WALTER M. FRENCH.

INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY. 843

[Also operating Hotel Butler Annex, American plan, \$2.50 per day up.]

[Hotel Butler, W. G. King, manager.]

SEATTLE, WASH. Jan. 7, 1909.

Jan. 4, 1909. Case filed. Pub. ordered.]

Hon. JOHN W. DUDLEY,
Juneau, Alaska.

DEAR MR. DUDLEY: I am sending up by Mr. R. H. Wise a copy of the field notes of non-mineral survey No. 926, together with my application to enter the same as soldier's additional homestead entry; also my non-mineral affidavit; corroborative affidavits are part of the field notes and I believe are all that are required.

I am also sending along certificate (recertified) in favor of Ira O. Russell, showing him entitled to 80 acres, which has been assigned to his widow, Josephine E. Russell, and assigned by her to me. I submitted this scrip to Judge Ballinger as my lawyer and he has approved the same, saying it was regular in every way, so I bought it and paid for it and am sending it forward to you at this time. If I should not tender it to the Land Office until after posting has been made, please hold it for me to be tendered at the proper time.

Now I suppose the plats and field notes from the surveyor-general's office have been turned over to your office and if this copy that I am sending is not required in your office please return it to me.

I am sending Mr. Wise up to post the notice on the ground, (also I expect to have him plat the ground out so that we can use it as soon as I get title).

—2—

I wish you would prepare for him the notices for posting, etc., and also order it advertised in the Katalla Herald and please give him any advice or instructions that may be required.

I inclose you draft for \$25 out of which please pay such fees required in your office and the balance use for your own services.

I was very anxious at this time to have Mr. Wise post a notice of the survey of Harry White, No. 928, located on Stillwater Creek near confluence of Bering River, but the scrip that he is locating has not reached here, although it is bought and paid for, being tied up somewhere in the snow storms between here and Washington. If it is not essential to have the scrip in your hands before advertising, please make out postings of his notice and if the scrip arrives here I will wire name of party owning the scrip and the assignment. You, of course, will have all other data in your office, or it can be obtained from the surveyor-general's office. I think that I will have Mr. Ballinger wire you the description of the scrip, also stating that it is assigned to Harry White; all this—providing the scrip gets here before Mr. Wise leaves Juneau on the *Portland*. Of course if this can't be done I will have to send this later and have you forward out to Mr. Wise at Katalla, and you know how we are hampered by mails not getting there for two or three months.

Our other non-mineral surveys we are not so hurried about, and I will take more time and be up and look after the matters a little later on.

—3—

I am expecting to go to Chicago the latter part of this month to meet Mr. McKenzie and others interested in the Doughten ground, and shall expect to take up the work of perfecting their surveys and title as soon as possible.

Any courtesy you may show Mr. Wise will be fully appreciated by me and any assistance you may render him and instructions in procedure in regard to the posting notices, etc.

Well, Mr. Dudley, we are having a genuine Alaska winter, and we don't like it. You know we prefer rain. I think this is worse than Alaska, for we don't expect anything better there.

Wishing you and Mr. Mullin all the compliments of the season, I remain,

Yours truly,

M. A. GREEN.

844 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

[Also operating Hotel Butler Annex. American Plan. \$2.50 per day up.]

[Hotel Butler, W. G. King, manager.]

Received May 6, 1909. Answered ———.]

SEATTLE, WASH. April 23, 1909.

HON. JOHN W. DUDLEY, *Juneau, Alaska.*

DEAR MR. DUDLEY: Inclosed herewith draft payable to P. M. Mullen for \$1,599.30. This is payment for James Campbell coal claim "Georgia," located at Katalla. I also inclose his naturalization papers so as to make his record complete.

Please have Mr. Mullen send the receipt in my care 1109 Alaska Building.

I also inclose John W. Frame's affidavit of publication in the Cordova Alaskan for the following claims: A. A. Lindsley, S. Posten, James Campbell, J. R. Young, C. W. Cornelius, J. B. MacDougal, C. T. Lindsley, Matilda Burke and Maud Love.

I was surprised when I met Mr. Frame the other day on the street to find he had not sent these proofs of publication to you before. I paid for the publications last fall and supposed they had all been sent to your office. However, he has executed the affidavits to-day and I expect everything is all right. He is going up to Juneau in about a week and will call to see if you want any change made.

I expect to go to Washington in a few days for short trip. Upon my return will see you at Juneau. I will turn in final proof of all of my claims that are advertised as soon as I go to Alaska. If Mr. Glavis has not returned the files to your office by the time you receive this letter, wish you would wire me, my expense, as I wish to take the matter up with Judge Ballinger when I get to Washington. It seems to me that those files are public documents and open to inspection of the public at your office at any time and I think, and shall insist that they be there.

I sent you up the scrip to file on Harry White's homestead, have not received receipt or any word from it since except the return of registration cards. If there is anything wrong with the scrip, please notify me by wire before the 30th of this month. I have other scrip here on hand, expect to send that up shortly to place on the non-mineral surveys which I represent.

We are hoping to make pretty substantial progress this summer with our coal properties and I expect to be pretty active this summer.

Please give my regards to Mr. Mullen and with kind regards to yourself, I remain,

Yours truly,

M. A. GREEN.

[Henry R. Harriman, attorney at law, New York Building.]

SEATTLE, WASH., March 12, 1908.

HON. JOHN W. DUDLEY,
United States Land Office, Juneau, Alaska.

DEAR SIR: Under instructions from Special Agent, H. K. Love, I beg to hand you herewith a facsimile copy of the contract for sale of sixteen (16) coal mining locations in Canyon Creek, Kayak Mining Precinct, executed on behalf of assignors by J. W. Hartline, agent, and by myself on behalf of purchasers.

Mr. Love did not advise me as to the fee for filing, but I should be pleased to cover same if you would advise me concerning it.

Very sincerely yours,

H. R. HARRIMAN.

[Hotel St. Francis, James Woods, manager.]

302 Ans 1/21/08]

SAN FRANCISCO, Jan. 7, 1908.

MR. P. M. MULLEN,
*Receiver and S. D. A., United States Land Office,
Juneau, Alaska.*

DEAR SIR: Please find enclosed receipt for \$8.79, in accordance with your instructions December 14-07.

Please pay the above-mentioned amount of \$8.79 to Mr. C. Cunningham and oblige

Yours very truly,

ARTHUR D. JONES.

302 Ana. 1/21/08]

[Arthur D. Jones & Co. (Incorporated), Empire State Building, 907 Riverside avenue. Telephone, Main 655.]

SPOKANE, WASH., Jan. 11, 1908.

Mr. P. M. MULLEN,
Receiver United States Land Office, Juneau, Alaska.

DEAR SIR: In accordance with your favor of December 14 we are returning herewith receipt 4-641a, which has been duly signed by Mr. Arthur D. Jones. Also letter from Mr. Arthur D. Jones asking that you remit this amount to Mr. Clarence Cunningham, at Seattle.

Thanking you for complying with this request, we are,

Yours very truly,

ARTHUR D. JONES & Co.,
By KISSOM.

K-I Enc. 2.]

80 J W D Mailed deed to Catella.]

1043 S. GRAND AVENUE,
Los Angeles, Calif., December 31, 1905.

RECORDER U. S. LAND OFFICE,
Juneau, Alaska.

DEAR SIR: Some three weeks ago I mailed you a deed to a coal claim in Kayak recording district, from E. J. Rathbone to me, for record. I am now advised that this should have been sent to Katalla, Alaska, for recording instead of to Juneau. If this is the case, will you kindly have it sent to the proper officer at Katalla, requesting him to have it recorded and returned to me here? Or if that can not be done, please return the deed to me together with the postal order for \$2.60 which accompanied it.

I shall feel much indebted to you for your attention to this matter, and would appreciate any information you may be inclined to give me regarding these coal lands.

Very truly yours,

WENDELL McLAUGHLIN.

SENATE OF THE UNITED STATES

COMMITTEE ON COAST AND INSULAR SURVEY

Washington, D. C.

166 Ana. Aug. 10, 07.]

SEATTLE, WASH., August 3, 1907.

HON. J. W. DUDLEY,
Register United States Land Office,
Juneau, Alaska.

DEAR SIR: I am in receipt of a letter from W. H. Mackey, who acted as my agent and located in my name a coal claim at Kanai Peninsula in your district. Mr. Mackey informs me that you hold that an agent can only act for four persons in locating and proving up on coal land.

I am inclined to believe that Mr. Mackey either failed to state the facts or else misunderstood you. He writes that I will have to procure another person to act as my agent; entailing, to me a heavy expense. (I am poorer by several thousand points than the Senator, and that's some.)

I wish you would do me a favor to write Mackey at Homer, Alaska, informing him of his error.

I took this matter up with Commissioner Ballinger personally this morning, and he told me that he had written your office to disregard rule as applying to locations located prior to November 12, as per circular of May 16, 1907.

If I can at any time reciprocate this favor, command me.

Yours very truly,

THOS. PAYNE.

Recd. & ans. 6/2/08—469]

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
COMMITTEE ON PATENTS,
Washington, D. C., May 23, 1908.

REGISTER, GENERAL LAND OFFICE,
Juneau, Alaska.

MY DEAR MR. MULLIN: Please record the inclosed papers and when they are recorded please return them to Harry White, esq., care of the Butler Hotel, Seattle, Wash. Also please find inclosed my check for \$3 to pay for recording the same.

I wish you would acknowledge receipt of these papers and let me know if you have recorded them, and if you have returned them to the said Harry White, esq., care of the Butler Hotel, Seattle, Wash.

A friend of mine from Carson City, Nev., James D. Finch, esq., will also send you some papers to be recorded, and if you can record all of them at about the same time I hope you will do so and advise me. The Finch papers should also be returned to Harry White, esq., care of the Butler Hotel, Seattle, Wash.

I will be in Juneau the latter part of July and around the 1st of August and hope to have the pleasure of renewing our very agreeable acquaintance.

With best wishes to you and Brother Dudley, believe me as ever,

Very sincerely your friend,

WM. SULZER.

(2 Incs.)

[The Rainier-Grand Hotel, Wilson & White Co., proprietors, Chas. Perry, manager.]

408—Ans. to Seward—Apl. 23-08.]

SEATTLE, April 3, 1908.

REGISTER AND RECEIVER, LAND OFFICE,
Juneau, Alaska.

GENTLEMEN: I am in receipt of your telegram of the 31st ult., which reads as follows: "When application is filed applicant waives remainder of three years and must make entry immediately. Hurry."

I took this matter up with the Land Department at Washington several weeks ago, while Mr. Ballinger was Commissioner of Lands. He informed me that we had our three years from the date of filing our notices in the local land office. On receipt of the above telegram I conferred with Mr. Ballinger, who is now here and he immediately wired Washington. They replied that they were writing and I expect to get their letter before I sail from here, which will be about the 8th of this month. You will understand that it is a physical impossibility for me to get final affidavits at the present time. The very best I can do will be from Apl. 15 to May 1. I am going direct to the coal fields, where I shall take final affidavits and return to the coast as soon as possible. This is the best I can do.

Wish you would kindly write me at once, to my address at Seward, Alaska, and let me know how they came to change the ruling again, and oblige,

Yours very truly,

[F. WATSON.]

Ans. this letter 3/13/08—316]

SEWARD, ALASKA, Jan. 4, 1907.

Hon. P. M. MULLEN,
Receiver, G. L. O., Juneau, Alaska.

DEAR SIR: I am to-day in receipt of a letter from Mr. Watson, inclosing Mr. Dudley's letter to him of Dec. 5, in which he states you requested a remittance for filing fees to cover coal land applications Nos. 113 and 114, which you had advanced out of your pocket.

There must be some misunderstanding about this I think. On August 17, 1906 Mr. Watson paid Mr. Dudley \$100 to cover the filing fees on 10 claims. Then on March 5, 1907, a draft for \$20 was mailed you for 2 more claims, and when Mr. Watson was in Juneau on April 29, 1907, he gave you a check for \$510 to cover the filing fee of 51 claims. Up to date we have only sent in applications for patent and have you receipt for 44 claims, so that you still have on hand, to apply on future application, the sum of \$190. If this is not correct kindly advise where I am mistaken so we can straighten the matter out.

Trusting this finds you well, and with kindest regards to yourself and family and Mr. Dudley, I am,

Yours very truly,

A. H. WHEATLEY.

INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY. 847

[Real estate department, Ham, Yearsley, Ryrie & Philbrick (Incorporated), southeast corner Sprague avenue and Washington street.]

[282—Sent receipts sent to M. V. Yearsley 1/6/08—Coal Declaratory Statements Nos. 732 & 733]

SPOKANE, WASHINGTON, *December 23, 1907.*

REGISTER LAND OFFICE,
Juneau, Alaska.

GENTLEMEN: We inclose you herewith coal-land declaratory statement of Helen M. Fitch and coal-land declaratory statement of Frank B. Perry. Also power of attorney of Frank B. Perry to Robert A. Foster and power of attorney of Helen M. Fitch to Robert A. Foster. We also inclose money order in favor of the receiver of the land office, Juneau, Alaska, for \$6 in payment of filing fees for the inclosed papers.

Yours very truly,

W— S. YEARSLEY,
Vice-President.

SEWARD, ALASKA, *December 30, 1907.*

HON. P. M. MULLAN,
Receiver, G. L. O., Juneau, Alaska.

DEAR MR. MULLAN: I am informed that in addition to the transfer made by Mr. Hoy of the Alpena claim, there are some other locators who are transferring their rights. When such transfers are made I presume it will be necessary to post a new notice of application for patent on the claim affected. As mails only leave here for Knik once a month, it will take from two to three months' time to send a notice in to the coal fields, get it posted and the advice of posting back here so we know of the posting before starting publication, and in order to save time can you not send me a blank form of the notice that will be used, so that when I am advised of such a transfer being made, by wire, I can fill in the proper name and address, and the description already given on the notice of previous locator on hand here, and forward a copy to your office, and a copy to the men at the coal fields to be posted, and retain the third copy for publication upon receipt of authorization from your office. This would save considerable time. If you need more than one copy for your office I can send you more; but, unless the form is identical with that used by original locator, would like a form I could use as above stated. You have now the papers for the Alpena claim, transferred from Mr. E. R. Hoy to H. E. Horrocks. I have sent a new notice of application for posting, identical with that of E. R. Hoy, except for the name and address of applicant, to be posted on the Alpena claim, on the mail leaving here January 1. And trust this will answer, as the next mail only leaves February 1st. However, if a different form is required, will see that it is posted on receipt of same, and hope it will be consistent for me to proceed in future cases as outlined in this letter, in order to save time on subsequent changes in names of applicants.

I do not suppose any change is necessary on the official plat of survey posted on the claim; but if there is, please advise fully.

Mr. Ritchie, of the Gateway, brought necessary authority for publishing notice of the Wolf claim, and I presume your official receipt for that claim will arrive on the *Bertha*.

Trust you and your family enjoyed the festive season, and wishing you all, and Mr. Dudley, a happy and prosperous New Year, I am,

Yours very truly,

A. H. WHEATLEY.

Mr. BRANDEIS. Now, Mr. Chairman, I think, until the investigation of those reports has been completed——

The CHAIRMAN. You mean the daily reports?

Mr. BRANDEIS. Yes, sir. There is probably nothing that I can introduce in evidence now.

Mr. VERTREES. Mr. Schwartz is in the other room examining them.

Mr. BRANDEIS. There is one other document which is a carbon of the report of Mr. Glavis which he testified he filed under date of May 26, 1909.

The CHAIRMAN. Is that letter in evidence?

Mr. BRANDEIS. It is. I merely want to call attention to the fact. It will not have to be reprinted. I want to introduce it in evidence to show that when this report was made the date was left blank, as the

witness testified he had made the report and held it several days awaiting a decision. That matter may be of significance, and I want merely to call attention to this carbon copy of the report. It is a carbon that came from the Forestry, is typewritten, with the date blank, and 26 is written in in pencil.

The CHAIRMAN. This comes from the Forestry Bureau?

Mr. BRANDEIS. This document came from the Forestry. I think all the others came from the Interior Department that I have introduced.

The CHAIRMAN. This is a carbon copy furnished to the Forestry Bureau by Mr. Glavis. Is it not?

Mr. BRANDEIS. Yes; it appears to be one of the original carbon copies, with the date left blank. That is, the date May is there, but the day of the month is left blank, and that is inserted in pencil. It is merely in connection with the witness' testimony that he has prepared this report, in pursuance of directions, but had held it until Mr. Hoyt testified this morning; he felt he could not hold it any longer, and ultimately, after holding it a number of days, after waiting to see what would happen, filed it on the 26th. It is only significant as to that. I do not think it need be printed in the record.

The CHAIRMAN. If it is printed once it need not be printed again.

Mr. BRANDEIS. There are certain daily reports which I have here; perhaps I can call attention to them in a moment. (reading)

DAILY REPORT.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Portland, Oreg., February 19, 1908.

Arrived Portland 8 a. m. Dictated 20 letters. Approved 50 proof notices. Conferred with Agent Doyle in re Alaska coal cases.

L. R. GLAVIS, *Special Agent.*

DAILY REPORT.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Portland, Oreg., February 26, 1908.

Dictated 20 letters.

Three interviews.

Reviewed testimony taken in the Portland Coal and Coke Company cases preparatory to conference with assistant United States attorney at Seattle, Wash.

Arranged papers in Alaska coal cases.

L. R. GLAVIS, *Special Agent.*

That is the latest date I have here available. Mr. Chairman, there is no evidence that would be desirable to introduce now, waiting for the documents.

The CHAIRMAN. Do you not desire to call upon the stand again Mr. Glavis?

Mr. BRANDEIS. I think Mr. Glavis will have to be called in connection with certain of the testimony to be later introduced and I do not think it could be profitably done at this time.

The CHAIRMAN. I wish you would go on now. These other reports will be put in just as soon as they are ready. Mr. Schwartz is working on them and will have them in shape in a short time.

Mr. BRANDEIS. I do not think there is anything that I care to ask Mr. Glavis at the moment. If the committee has any questions—

The CHAIRMAN. Have you any other testimony?

Mr. BRANDEIS. Not at present. The other witnesses can be introduced at the proper time. Mr. Jones is one of the witnesses.

The CHAIRMAN. I think two other witnesses who were subpoenaed are here now.

Mr. BRANDEIS. Those two witnesses will be examined in connection with the Juneau papers in Mr. Christensen's testimony.

Mr. VERTREES. I understand you are not going to reexamine Mr. Glavis as to anything that has gone before.

Mr. BRANDEIS. I may examine him on some other points hereafter, but I do not think there is any reason to examine him on any other point now.

Senator FLETCHER. Mr. Chairman, I would like to ask Mr. Glavis just one question, with the permission of the committee.

The CHAIRMAN. Yes.

Senator FLETCHER. Mr. Glavis, look at page 455 of this record of the testimony, and referring to the Christensen letter, I simply wish to ask, did you hear anything further from Mr. Christensen after September, 20, 1909, about the documents mentioned in this letter?

Mr. GLAVIS. No, sir; I do not recall having received any other communication about them.

Senator FLETCHER. That is all I want to ask.

Mr. BRANDEIS. There are some other papers that have come in, Mr. Chairman, being daily reports, which I will read:

March 6, 1908, Seattle, Wash., en route to Portland:

Arr. Seattle at 7 a. m. Fee to porter on sleeper, 25c. Took affidavit of Clarence Cunningham and secured possession of certain papers and records in re Alaska coal cases. Interviewed M. C. Moore in re above case. Wired G. L. O. in re above case. Left Seattle at 10.20 p. m. Rode on T. R. of Agt. Jones. N. P. Ry. Co., sleeper, Seattle to Portland, \$2.00.

April 7, 1908, Portland, Oregon:

In conference with Chief Field Service Division H. H. Schwartz.

April 8, 1908, Portland, Oregon:

In conference with Chief Field Service Division H. H. Schwartz. Left Portland 11.45 p. m.; N. P. Ry. Co., fare to Seattle and return, \$11.20; N. P. Ry. Co., sleeping car, fare \$2.00.

April 9, 1908, Seattle, Washington:

Arrived Seattle 7.15 a. m. Fee to porter of sleeper, 25c. Conferred with Agents Stoner and Kennedy in re coal-land investigation. Worked on coal-land investigations. Conferred with Judge Ballinger in re same. Wired G. L. O. for all records pertaining to Alaska coal cases.

April 10, 1908, Seattle, Washington:

Took affidavit of J. G. Smith. Interviewed A. M. Arnold in re his coal claim. Interviewed Clarence Cunningham in re Alaska coal claim. Instructed Agents Stoner and Kennedy in re making investigations.

April 11, 1908, Seattle, Washington:

Took affidavit of S. C. Chezum in re his coal claim and claims for which he is agent. Conferred with Judge R. A. Ballinger in re Alaska coal cases. Conferred with U. S. atty. in re P. Co. coal cases & Wilson coal cases and referring to evidence obtained in Alaska coal cases with a view to criminal prosecution. Interviewed Mr. McDonald in re Alaska cases. Left Seattle 10.20 p. m. N. P. Railway Co. fare to Portland, \$.60; N. P. Railway Co. sleeper to Portland, \$2.00.

May 1, 1908, Portland, Oreg.:

Personally wrote five-page letter to G. L. O. in re necessity for additional force. Attending to the clerical work of the office. Oakland will be my P. O. address until May 9th.

Arrived at Seattle at 7 a. m. Fee to porter on sleeper, .25. Trans. baggage, depot to hotel, .50. Made arrangements for trip to Alaska. Issued T. R. No. 3905 for 2 tickets to Nome and return (\$400.00). One kodak film, .75.

The CHAIRMAN. I want to explain to you, Mr. Brandeis, that in going over these reports Mr. Schwartz has marked in brackets the portions of the reports that ought not to go in the record, and if that is satisfactory, those portions will be omitted in the printed record.

Mr. BRANDEIS. I think that is entirely satisfactory.

The CHAIRMAN. And the stenographer will return the originals to the clerk.

Monday, May 17th, 1909, Washington, D. C.:

In conference with Secretary and commissioner relative to result of investigations in re Alaska coal cases.

Tuesday, May 18th, 1909, Washington, D. C.:

Attending to routine work affecting my field division. Transfer of trunk, depot to office, \$0.75.

Wed., May 19th, 1909, Washington, D. C.:

Conferred with chiefs of divisions in re reports and accounts. Conferred with the Attorney-General in re Oregon matters.

Thurs., May 20, 1909, Washington, D. C.:

Working on Alaska coal cases.

Friday, May 21st, 1909, Washington, D. C.:

Working on Alaska coal cases.

Sat., May 22, 1909, Washington, D. C.:

Working on Alaska coal cases.

Sun., May 23rd, 1909, Washington, D. C.:

Working on Alaska coal cases.

Mon., May 24th, 1909, Washington, D. C.:

Working on Alaska coal cases.

Tues., May 25th, 1909, Washington, D. C.:

Conferred with Attorney-General relative to Oregon matters and Alaska coal cases.

Wed., May 26th, 1909, Washington, D. C.:

Submitted report on Alaska coal cases involving 782 entries.

Thurs., May 27, 1909, Washington, D. C.:

Conferred with Secretary relative to Alaska coal cases.

Fri., May 28th, 1909, Washington, D. C.:

Instructed Bowman in re investigation of Alaska coal cases and attended to routine work received from Seattle.

Sat., May 29th, 1909, Washington, D. C.:

Preparing monthly accounts and arranging data to be covered by report to Attorney-General relative to Oregon land fraud cases.

Sun., May 30th, 1909, Washington, D. C.:

Did not attend to any work.

Mon., May 31st, 1909, Washington, D. C.:

Legal holiday.

The CHAIRMAN. I am informed that you have them all now. Do not read what is in brackets, please.

Mr. BRANDEIS. I have not seen anything yet. I will take the month of July, 1909.

Mr. Brandeis continues reading:

Thursday, the 1st day of July, 1909, Seattle, Wash.

Issued T. R. 47911 to Portland, Ore., & return (\$11.20).

Securing evidence in Alaska coal cases and attending to office work. Worked in evening until 11 p. m.

Friday, the 2nd day of July, 1909, Seattle, Wash.:

Worked on Alaska coal cases. Attended to office work.

Saturday, the 3rd day of July, 1909:

Sick—did not attend to official duties.

Sunday, the 4th day of July, 1909:

Sunday.

Monday, the 5th day of July, 1909:

Legal holiday.

Tuesday, the 6th day of July, 1909, Seattle, Wash.:

Worked on Alaska coal investigations and attended to office work.

Wednesday, the 7th day of July, 1909, Seattle, Wash.:

Submitted report in re M. A. Arnold coal entry.

Thursday, the 8th day of July, 1909, Seattle, Wash.:

Office work. Made adverse reports on Dunn group and Cunningham group, Alaska coal entries.

Friday, the 9th day of July, 1909, Seattle:

Office work. Made adverse reports in re Dickerman group and Brown group, Alaska coal entries.

Saturday, the 11th day of July, 1909, Seattle, Wash.:

Office work. Secured Harry White's affidavit in re Green group.

Sunday, the 12th day of July, 1909, Seattle, Wash.:

No work performed.

Monday, the 13th day of July, 1909, Seattle, Wash.:

Submitted adverse report in re Doughten group, Alaska coal cases. Favorably reports Walsh group and Flint group, 4. Submitted favorable report in re White group, Alaska coal cases, 3. Submitted favorable report in re Runnels group, Alaska coal cases, 3. Submitted favorable report in re Warddell group, Alaska coal cases, 4. Submitted favorable report in re Harkrader group, Alaska coal cases, 4. Submitted favorable report in re Krifting group, Alaska coal cases, 2.

Coal filings: Reports submitted—good, 20; bad, 40.

The CHAIRMAN. I notice the "Flint" group.

Senator FLINT. And I notice that there is a favorable report, too.

Tuesday, the 14th day of July, 1909, Seattle, Wash.:

Office work.

Thursday, the 15th day of July, 1909, Seattle, Wash.:

Made adverse report in re Christopher, Simmonds, and Letcher group, Alaska coal cases, 71 cases. Made adverse report in re Stracey group, Alaska coal cases, 78 cases. Coal filings: Reports submitted—bad, 149.

Friday, the 16th day of July, 1909, Seattle, Wash.:

Office work. Made adverse report in re Watson group, Alaska coal filings, 39 cases, and 25 cases in same group favorably reported.

Coal filings: Reports submitted—good, 25; bad, 39.

Saturday, the 17th day of July, 1909, Seattle, Wash.:

Office work. Made adverse report in re T. T. by Northern Commercial Co.—A. X 43.

Sunday, the 18th day of July, 1909, Seattle, Wash.:

Monday, the 19th day of July, 1909, Seattle, Wash.:

Office work. Made adverse reports in re Bushnell, McAlpine, and Mackey group, Alaska coal cases. Made favorable reports in re 8 lieu selections (X64, 65, 69, 70, 71, 72, 73, & X9), 2 T. & S. C. Es (X310, 311), and H. E. 18976 (S. 228). Worked in evening until 10:30 p. m. on Alaska coal cases.

Reports submitted: Homestead: Good, 1. Timber and stone: Good, 2. Coal filings: Bad, 175. Lieu selections: Good, 8.

Tuesday, the 20th day of July, 1909, Seattle, Wash.:

Office work.

Wednesday, the 21st day of July, 1909, Seattle, Wash.:

Office work.

Thursday, the 22nd day of July, 1909, Seattle, Wash.:

Office work.

Friday, the 23rd day of July, 1909, Seattle, Wash.:

Office work. Upon the verbal instructions of the commissioner am remaining at headquarters.

Saturday, the 24th day of July, 1909, Seattle, Wash.:

Office work.

Sunday, the 25th day of July, 1909, Seattle, Wash.:

Office work.

Monday, the 26th day of July, 1909, Seattle, Wash.:

Office work.

Tuesday, the 27th day of July, 1909, Seattle, Wash.:

Office work.

Wednesday, the 28th day of July, 1909, Seattle, Wash.:

Office work; preparing cases for field trip.

Thursday, the 29th day of July, 1909, Seattle, Wash.:

Transfer baggage, hotel to depot, \$.50. Issued T. R. No. 47912, N. P. Ry. Co., Seattle to Portland (\$5.60); N. P. Ry. Co., sleeper Seattle to Portland, \$2. Office work; prepared cases for field exam. Left Seattle at midnight.

Friday, the 30th day of July, 1909, Portland, Oreg.:

Fee to porter on sleeper, 25 cts.; transfer baggage, depot to hotel, \$.50; bus fare depot to hotel, 25 cts. Arr. Portland at 8 a. m.; conferred with Forest Service in re Alaska coal cases and in reference to employment of Gabriel Wingate. Gave Wingate verbal instructions.

Saturday, the 31st day of July, 1909, Portland, Oreg.:

Wrote instructions for Gabriel Wingate in re coal cases. Conferred with Forest Service.

Sunday, the 1st day of August, 1909, Portland, Oregon:

Wrote daily reports and prepared monthly account.

Monday, the 2nd day of August, 1909, Portland, Oregon:

Locating coal claimants to be interviewed; tried to interview C. R. Mears; investigated A. B. Crossman's participation in certain coal companies.

Tuesday, the 3rd day of August, 1909, Portland, Oregon:

Took affidavits of A. A. Lindsley, E. C. Mears, and I. B. Hammond; also interviewed Mr. Pittoch, of the Oregonian, in re Alaska coal cases.

Wednesday, the 4th day of August, 1909, Portland, Oregon:

N. P. Ry. Co., fare to Seattle, Wash., \$.60; N. P. Ry. Co., sleeper, \$2.00; transfer of baggage, \$.50; bus fare, hotel to depot, 25 cts. Interviewed W. H. Hurlburt and Mr. Pendleton, of firm of Buffum & Pendleton; secured from Mr. Pendleton the minute book of the Anglo-American Oil & Coal Company. Worked late copying and comparing same.

Left for Seattle at midnight.

Thursday, the 5th day of August, 1909, Seattle, Wash.:

Fee to porter 25 cts.; transfer of baggage, 25 cts. Office work.

Friday, the 6th day of August, 1909, Seattle and en route to Spokane:

N. P. Ry. Co. sleeper to Spokane, \$2.50; transfer baggage, \$.50. Office work; left for Spokane at 10.30 p. m. Transportation furnished on T. R. of Agt. Gery's.

Saturday, the 7th day of August, 1909, Spokane, Wash.:

Fee to porter, 25 cts.; transfer of baggage, \$.50. Arrived at Spokane at 2 p. m., too late to interview any of the claimants.

Sunday, the 8th day of August, 1909, Spokane, Wash.:

No work performed.

Monday, the 9th day of August, 1909, Spokane, Wash.:

Conferred with Hon. G. F. Pinchot in re coal cases.

Tuesday, the 10th day of August, 1909, Spokane, Wash.:

Issued T. R. 47913, to Chicago, Ill., N. P. Ry. (\$46.10), N. P. Ry. Co. sleeper to St. Paul, Minn., \$.95. Transfer baggage, hotel to depot, 50 cts. Worked on coal cases; left Spokane at 10 p. m.

Wednesday, the 11th day of August, 1909, en route to Chicago, Ill.:

Fee to porter on sleeper, 25 cts.

Thursday, the 12th day of August, 1909, en route to Chicago, Ill.:

Fee to porter, \$.25.

The CHAIRMAN. Does he say what he did in Chicago?

Mr. BRANDEIS. This is en route to Chicago.

Friday, the 13th day of August, 1909, Chicago, Ill.:

Fee to porter on sleeper, 25 cts. Pullman berth, St. Paul, Minn., to Chicago, Ill. \$2.50. Bus fare, depot to hotel, Chicago, 50 cts. Transfer baggage, depot to hotel Chicago, 50 cts. Arrived at Chicago at 10.40 p. m.

Mr. BRANDEIS. The next one will show what he did, Mr. Chairman.

Saturday, the 14th day of August, 1909, Chicago, Ill.:

Worked on Alaska coal cases.

The CHAIRMAN. Does he say who he worked with?

Mr. BRANDEIS. Not there.

Sunday, the 15th day of August, 1909, Chicago, Ill.:

Issued T. R. 47914, Penn. Co., Chicago to New York (\$20.00), & T. R. 47915, 1st berth and extra fare (\$15.00); bus fare, hotel to depot, 50 cts.; transfer baggage, hotel to depot, 50 cts. Worked on Alaska coal cases; left Chicago at 2.45 p. m.

Monday, the 16th day of August, 1909, New York City:

Fee to porter on sleeper, 25 cts.; transfer baggage, depot to house, \$.50; N. H. & H. R. R. sleeper, New York to Boston, Mass., \$2.00. Issued T. R. 47916, N. Y., N. H. & H. R. R., New York to Boston (4.05). Arr. in New York at 10 a. m. Worked on Alaska coal cases. Left New York at midnight.

Tuesday, the 17th day of August, 1909, Boston, Mass., & Beverly, Mass.:
 Fee to porter, 25 cts.; Boston & Maine R. R., fare, Boston to Beverly, 35 cts.; bus fare, depot to hotel, Beverly, \$.25. Arr. Boston at 7 a. m. Left Boston at 7.30 a. m., arr. Beverly at 8.15 a. m. Conferred with the President's secretary during the morning. In the afternoon received instructions to confer with the President at 3 p. m. to-morrow.

Wednesday, the 18th day of August, 1909, Beverly, Mass., and Boston:
 Boston & Maine R. R., fare Beverly to Boston, 35 cts. Hack hire, Beverly to the President's residence and return, \$3.50. In conference with the President in re Alaska coal cases. Returned to Boston at 5.40 p. m.; arr. at 6.20 p. m.

Thursday, the 19th day of August, 1909, Boston, Mass.:

Remained in Boston for further instructions at request of the President.

Friday, the 20th day of August, 1909, Boston, Mass.:

Remained in Boston for further instructions at request of the President.

Saturday, the 21st day of August, 1909, Boston, Mass.:

Remained in Boston for further instructions at request of the President.

Sunday, the 22nd day of August, 1909, Boston, Mass.:

Monday, the 23rd day of August, 1909, Boston, Mass.:

N. Y., N. H. & Hartford R. R. sleeper to New York City, \$1.50. Issued T. R. 47917 (\$4.65). Received instructions from the President. Left Boston at midnight. Great Northern Hotel, Chicago, Ill., will be my address until Aug. 27th.

Tuesday, the 24th day of August, 1909, New York City:

Fee to porter, 25 cts. N. Y. Central Ry., sleeper to Chicago, \$5.00. Issued T. R. No. 47918 (\$24.00). Transfer baggage, house to depot, 50 cts. Arrived in N. Y. at 7 a. m. Left New York at 5.20 p. m.

Wednesday, the 25th day of August, 1909, Chicago, Ill.:

Fee to porter, 25 cts. Transfer baggage, depot to hotel, 50 cts. Bus fare, depot to hotel, 50 cts. Arrived at Chicago at 5.30 p. m.

Thursday, the 26th day of August, 1909, Chicago, Ill.:

Telegraph message, 47 cts. Worked on coal cases, preparing & segregating evidence in the different groups, in order to determine what additional evidence is obtainable.

Friday, the 27th day of August, 1909, Chicago, Ill.:

Issued 47919, C. N. W. Ry. Co., Chicago to Portland (\$56.90). Issued T. R. 47920, Pullman Co. sleeper, St. Paul, Minn., to Seattle, (\$12.00). Worked on Alaska coal cases, preparing and segregating the evidence in the different groups; reviewed the evidence and determined on what further investigation is necessary in the East; to be assigned to Agt. Bowman.

Saturday, the 28th day of August, 1909, Chicago, Ill.:

Had 5 interviews and made other efforts to locate Robert A. Foster & Shirley S. Philbrick in re Alaska coal cases.

Sunday, the 29th day of August, 1909, Chicago, Ill., & en route to St. Paul, Minn.:

C. N. W. Ry., sleeper to St. Paul, Minn., \$2.00; transfer of baggage, hotel to depot, \$.25; bus fare, hotel to depot, 50 cts. Mailed Bowman detailed instructions in re investigations to be made in Detroit & other sections of the East. Left Chicago at 10.10 p. m.

The CHAIRMAN. Have you got in all the reports that you want?

Mr. BRANDEIS. I introduced them up to and including September 18, but I think it is not necessary to read the last days.

The CHAIRMAN. The other reports you do not care about having in the record?

Mr. BRANDEIS. Oh, yes, sir; I want them in the record, but I do not think it necessary to read them all. I think it is necessary that they should be in the record.

The CHAIRMAN. You want them all read?

Senator FLINT. Considered as read.

Mr. BRANDEIS. Yes, sir.

(The remaining reports, considered as read, are as follows:)

Monday, the 30th day of August, 1909, St. Paul, Minn., & en route to Seattle:

Fee to porter on sleeper, 25 cts. Arr. St. Paul at 10 a. m. Left St. Paul at 11 a. m.

Tuesday, the 31st day of August, 1909, en route to Seattle, Wash.:

Fee to porter on sleeper, 25 cts.

Wednesday, the 1st day of Sept., 1909, Seattle, Wash.:

Fee to porter, 25 cts.; transfer baggage, depot to hotel, 50 cts. Arr. Seattle at 6 30 p. m.

Thursday, the 2nd day of Sept., 1909, Seattle, Wash.:
Office work.
Friday, the 3rd day of Sept., 1909, Seattle, Wash.:
Office work. Worked in evening until 10.30 p. m.
Saturday, the 4th day of Sept., 1909, Seattle, Wash.:
Office work.
Sunday, the 5th day of Sept., 1909, Seattle, Wash.:
Worked in office half a day.
Monday, the 6th day of Sept., 1909, Seattle, Wash.:
Office work.
Tuesday, the 7th day of Sept., 1909, Seattle, Wash.:
Office work.
Wednesday, the 8th day of Sept., 1909, Seattle, Wash.:
Office work.
Thursday, the 9th day of Sept., 1909, Seattle, Wash.:
Office work.
Friday, the 10th day of Sept., 1909, Seattle, Wash.:
Office work.
Saturday, the 11th day of Sept., 1909, Seattle, Wash.:
Office work.
Sunday, the 12th day of Sept., 1909, Seattle, Wash.:
Office work.
Monday, the 13th day of Sept., 1909, Seattle, Wash.:
Office work.
Tuesday, the 14th day of Sept., 1909, Seattle, Wash.:
Office work.
Wednesday, the 15th day of September, 1909, Seattle, Wash.:
Office work.
Thursday, the 16th day of Sept., 1909, Seattle, Wash.:
Office work.
Friday, the 17th day of Sept., 1909, Seattle, Wash.:
Office work.
Saturday, the 18th day of Sept., 1909, Seattle, Wash.:
Office work.

The daily reports of L. R. Glavis from December 6, 1907 to September 18, 1909 inclusive, are as follows:

[All signed "L. R. Glavis, Special Agent."]

December 6, 1907, Portland, Oregon:
Examining and approving reports and attending to current work in office. Made preparation to leave for Washington, D. C.
December 7, 1907, Portland, Oregon, and en route:
Transfer baggage house to depot, 50c. Issued T. R. No. 27090 to Washington, D. C.
O. R. & N. Co., sleeper, Portland to Chicago, \$14.00. Leave Portland 8.30 a. m.
December 8, 1907, en route:
En route to Washington, D. C., fee to porter on sleeper, 25c.
December 9, 1907, en route to Washington, D. C.:
Fee to porter on sleeper, 25c.
December 10, 1907, en route to Washington, D. C.:
Fee to porter on sleeper, 25c. Arrived at Chicago 3.30 p. m. Leave Chicago 5.30 p. m. Pennsylvania Ry., sleeper to Washington, D. C., \$5.00. Extra fare, \$2.00.
December 11, 1907, en route to Washington, D. C.:
Fee to porter on sleeper, 25c. Arrived at Washington, D. C., 5.30 p. m. Transfer of baggage, depot to house, 25c.
December 12, 1907, Washington, D. C.:
In conference at G. L. O., in re work of first field division and Alaska coal cases.
December 13, 1907, Washington, D. C.:
In conference at G. L. O., in re work of first field division and Alaska coal cases.
December 14, 1907, Washington, D. C.:
In conference at G. L. O., in re work of first field division and Alaska coal cases.
December 15, 1907 (Sunday), Washington, D. C.
December 16, 1907, Washington, D. C.:
In conference at G. L. O. in re work of first field division and Alaska coal cases.
December 17, 1907, Washington, D. C.:
In conference at G. L. O. in re work of first field division and Alaska coal cases.
December 18, 1907, Washington, D. C.:

In conference at G. L. O. in re work of first field division and Alaska coal cases. Issued T. R. No. 26991 to Portland, Ore.

December 19, 1907, Washington, D. C.:

In conference at G. L. O. in re condition of work in first field division and Alaska coal cases. Wired clerk at Portland to hold mail, 40 cents. Transfer, baggage, house to depot, 25 cents. Pennsylvania R. R., sleeper, Washington, D. C., to Chicago, Ill., \$5.00. Leave Washington 5.30 p. m.

December 20, 1907, en route to Portland, Ore.:

Arrived Chicago 4 p. m. Fee to porter on sleeper, \$0.25. Leave Chicago at 6:30 p. m. C. M. & St. P., sleeper to St. Paul, Minn., \$2.00.

December 21, 1907, en route to Portland, Ore.:

Arrived St. Paul, Minn., 7 a. m. Left St. Paul 11.45 a. m. N. P. Ry. Co., sleeper to Portland, Oregon, \$12.00.

December 22, 1907, en route to Portland, Ore.:

Fee to porter on sleeper, \$0.25.

December 23, 1907, en route to Portland, Ore.:

Fee to porter on sleeper, \$0.25.

December 24, 1907, Portland, Ore.:

Arrive Portland 9.30 a. m. Fee to porter on sleeper, \$0.25. Transfer, baggage, depot to house, \$0.50. Read accumulated mail and correspondence and agents' reports.

December 25, 1907 (legal holiday), Portland, Oregon.

December 26, 1907, Portland, Ore.:

Attended to current work in office. Left Portland, Oregon, at 11.45 p. m. for Seattle. N. P. Ry. Co., sleeper to Seattle, \$2.00. N. P. Ry. Co., fare, to Seattle and return, \$11.20.

December 27, 1907, Seattle, Wash., and en route to Portland, Ore.:

Arrived Seattle 7.30 a. m. Fee to porter on sleeper, \$0.25. Called on Andrew Kennedy to determine his qualifications for appointment as coal expert in excepted class of special agents. Left Seattle at 1.15 p. m. N. P. Ry. Co., parlor-car fare, \$1.25.

December 28, 1907, Portland, Ore.:

Arrived Portland 8.15 a. m. Fee to porter on sleeper, \$0.25. Attending to current work. Reading accumulated mail. Reading and approving and disapproving agents' reports.

December 29, 1907, Portland, Ore.:

Reading accumulated mail. Reading and approving and disapproving agents' reports. Attending to current work of division.

December 30, 1907, Portland, Ore.:

Attending to current work of division. Reading accumulated mail. Reading and approving and disapproving agents' reports.

December 31, 1907, Portland, Ore.:

Reading accumulated mail. Reading and approving and disapproving agents' reports. Attending to disbursing accounts.

Daily record of work and expenses, January, 1908.

[All signed "L. R. Glavis, Special Agent."]

January 1, 1908, Portland, Ore.:

Attending to current work of office in morning. In conference with agents.

January 2, 1908, Portland, Ore.:

Attending to current work of office. Dictated 11 letters.

January 3, 1908, Portland, Ore.:

Attending to current work of office. Conferred with Spl. Inspr. T. B. Neuhausen in reference to land fraud trials in which I was directed to assist Mr. Heney with special agents. Conferred with agents. Dictated 6 letters. Assigned Agents Norton, Pollard & Alexander to work under Mr. Heney's instructions in pending land fraud trials.

January 4, 1908, Portland, Ore.:

Attending to current work of office. Dictated 15 letters.

January 5, 1908, Portland, Ore.:

Sunday, attending to current work of office in morning.

January 6, 1908, Portland, Ore.:

Attending to current work of office. Dictated 12 letters and form of notice for sale of illegally cut timber in re F. L. Bridgen timber trespass from H. E. 12052, Roseburg series.

January 7, 1908, Portland, Oreg.:

Attending to current work of office. Dictated 10 letters. Conferring with agents.

January 8, 1908, Portland, Oreg.:

Attending to current work of office. Talked with attorneys in reference to hearings on agents' charges. Interviewed various people in reference to land cases and complaints. Dictated 8 letters.

January 9, 1908, Portland, Oregon:

Attending to current work of office. Dictated 20 letters.

January 10, 1908, Portland, Oregon:

Attending to current work of office. Dictated 12 letters. Conferred with agents. Talked with various attorneys in re land claims and cases.

January 11, 1908, Portland, Oregon:

Attending to current work of office. Dictated 12 letters. Conferred with agents. Talked with various attorneys in re land cases and claims.

January 12, 1908, Portland, Oregon:

Attending to current work of office and made arrangements to proceed to San Francisco, California, to attend trial of case of U. S. vs. M. D. Hyde, et al. Left Portland, 11.45 p. m. Expenses charged to Department of Justice.

January 13, 1908:

Arrived at Oakland, Calif., at 11 a. m. Conferred with B. W. Marshall in re trial of M. D. Hyde et al. Left Oakland, Calif., at 1.40 p. m. Arrive San Francisco, Calif., at 2.30 p. m. Conferred with U. S. attorney in re trial of Hyde case. Expenses charged to Department of Justice.

January 14, 1908, San Francisco, California:

Assisting U. S. attorney in preparation of evidence in case of U. S. vs. M. D. Hyde, et al. Expenses charged to Department of Justice.

January 15, 1908, San Francisco, California:

Attending trial of case of U. S. vs. M. D. Hyde et al, in which a continuance was granted on motion of defendants until February 11th, 1908. Left San Francisco, California, at 8 p. m., en route to Portland, Oregon. Expenses charged to Department of Justice.

January 16, 1908, en route to Portland, Oregon:

Telegraph message to Clerk W. L. Miller, Portland, Oregon, 21 words, \$.21. Arrive Roseburg, Oregon, 11.30 p. m. Expenses charged to Department of Justice.

January 17, 1908, Roseburg, Oregon:

Commenced inspection of U. S. land office. Received advices requiring my presence in Portland, Oreg., on account of pending trials. Left Roseburg at 2.30 p. m. Arrive Portland, 11.30 p. m. Traveling expenses charged to Dept. of Justice. Sub-sistence not charged to Dept. of Justice.

January 18, 1908, Portland, Oregon:

Attending to current work of office. Read accumulated mail. Dictated 30 letters.

January 19, 1908, Portland, Oreg.:

Attending to current work of office. Dictated 11 letters. Prepared monthly and quarterly accounts. In conference with Chief Field Division Sharp.

January 20, 1908, Portland, Oreg.:

Attending to current work of office. Dictated 12 letters.

January 21, 1908, Portland, Oreg.:

Attending to current work of office. Dictated 18 letters.

January 22, 1908, Portland, Oreg.:

Attending to current work of office. Dictated 23 letters.

January 23, 1908, Portland, Oreg.:

Attending to current work of office. Dictated 14 letters. Worked in the evening until 10.30 p. m.

January 24, 1908, Portland, Oreg.:

Attending to current work of office. Dictated 11 letters. Worked in the evening until 11 p. m.

January 24, 1908, Portland, Oreg.:

Attending to current work of office. Worked in evening until 10.30 p. m., assisted by Clerk Miller. Dictated 14 letters.

January 25, 1908, Portland, Oreg.:

Worked on current duties connected with office. Dictated 10 letters. Worked in evening until 11 p. m.

January 26, 1908, Portland, Oreg.:

Worked five hours on 60 checks in payment for making personal service vouchers therefor, etc.

January 27, 1908, Portland, Oreg.:

Worked on current duties of office. Dictated 80 letters. Worked in evening until 10.30 p. m., assisted by Clerk Miller.

January 28, 1908, Portland, Oreg.:
 Conferred with Mr. F. J. Heney in re land fraud trials. Instructed Special Agent Kennedy in duties of office. Attending to current work of office. Dictated 6 letters.
 January 29, 1908, Portland, Oreg.:
 Attending to current work of office. Dictated 10 letters. Worked in the evening until 10.30 p. m.
 January 30, 1908, Portland, Oreg.:
 Attending to current work in office. Dictated 8 letters.
 January 31, 1908, Portland, Oreg.:
 Attending to current work. Worked at night until 10.30 p. m., filing papers, etc. Made out monthly account. Dictated 14 letters.

Daily record of work and expenses, February, 1908.

[All signed "L. R. Glavis, Special Agent."]

February 1, 1908, Portland, Oreg.:
 Conferred with Telephone Co.'s representatives in re disconnection of phone. Instructed Special Agent Jones in re report upon inspection of land office, Roseburg, Oregon. Dictated 8 letters.
 February 2, 1908, Portland, Oreg.:
 Attending to current work of office in morning. Worked on cases awaiting dates for hearings. Discussed reports in re inspection of Roseburg land office with Agent Jones.
 February 3, 1908, Portland, Oreg.:
 Attending to current work of office. Conferred with special agents relative to assignments of work. Dictated 5 letters.
 Will leave Feb. 8th for San Francisco to attend trial of M. D. Hyde et al.
 February 3, 1908, Portland, Oreg.:
 Attended to current work of office. Conferred with agents relative to assignment of field work. Dictated 5 letters.
 February 4, 1908, Portland, Oreg.:
 Attended to current work. Drew 470 cases from files and reviewed same and assigned them to the agents for field investigation.
 February 5, 1908, Portland, Oreg.:
 Attended to current work. Instructed agents in re cases to be investigated in the field.
 February 6, 1908, Portland, Oreg.:
 Attended to current work. Dictated 10 letters. Worked in evening until 10 p. m.
 February 7, 1908, Portland, Oreg.:
 Attended to current work. Attended trial of case of U. S. vs. J. H. Hall et al.
 February 8, 1908, Portland, Oreg.:
 Attended to current work. Dictated 8 letters. Showed Mr. Rittenhouse manner of keeping records. Prepared for trip to San Francisco. Left Portland 7.30 p. m.
 February 9, 1908, en route to San Francisco:
 Expenses charged to Department of Justice.
 February 10, 1908, San Francisco, Cal.:
 Arr. San Francisco at 11 a. m. Conferred with Asst. U. S. Attorney McKinley in re trial of M. D. Hyde et al. Expenses charged to Dept. of Justice.
 February 11, 1908, San Francisco, Cal.:
 Attended trial of case of M. D. Hyde et al. Case again continued upon motion of defense to February 17, 1908. Expenses charged to Department of Justice.
 February 12, 1908, San Francisco, Cal.:
 Called at U. S. attorney's office. Expenses charged to Dept. of Justice.
 February 13, 1908, San Francisco, Cal.; Oakland, Cal.:
 Went to Oakland & secured facts where U. S. attorneys have failed to vigorously prosecute. Facts to be given to Mr. Heney. Expenses charged to Dept. of Justice.
 February 14, 1908, San Francisco, Cal.:
 Called at U. S. attorney's office. Wired Moore in re same. Expenses charged to Dept. of Justice.
 February 15, 1908, San Francisco, Cal.:
 Expenses charged to Dept. Justice.
 February 16, 1908, San Francisco, Cal.:
 Sunday.
 February 17, 1908, San Francisco, Cal.:
 Attended trial of case vs. M. D. Hyde, et al. Jury disagreed. Left San Francisco, Cal., at 8.00 p. m. Expenses charged to Dept. of Justice.

February 18, 1908, en route to Portland:
 Expenses charged to Dept. of Justice.
 February 19, 1908, Portland, Oregon:
 Arr. Portland 8.00 a. m. Dictated 20 letters. Approved 50 proof notices. Conferred with Agt. Doyle in re Alaska coal cases.
 February 20, 1908, Portland, Oregon:
 Dictated 23 letters. approved 25 proof notices. Attended to current work of office. Endeavored to interview Steve Connell of U. S. Secret Service. Worked in evening until 10.30. Made account to Department of Justice.
 February 21, 1908, Portland, Oregon:
 Attended to current work. Dictated 20 letters. Interviewed Mr. Marshall in evening in re H. E. of Edward Casey. Worked in evening until 10.30 p. m., assisted by Clerk Miller.
 February 22, 1908, Portland, Ore.:
 Prepared cases for hearing. Set dates for 15 cases.
 February 23, 1908, Portland:
 Worked four hours attending to current work and cases on which dates have been set for hearing.
 Spokane, Wash., will be my P. O. address on Mar. 2nd.
 February 24, 1908, Portland:
 Dictated 10 letters. Interviewed Mr. Thompson, attorney for John R. & Lester W. Shaver, in re their H. Es. awaiting hearing. Attended to routine work of office. Worked in evening until 10.30 p. m., assisted by Clerk Miller.
 February 25, 1908, Portland, Oregon:
 Attended to current work. Approved 75 proof notices. Dictated 15 letters. Worked in evening until 10.30.
 February 25, 1908, Portland, Oregon:
 Attended to current work. Approved 75 proof notices. Dictated 15 letters. Worked in evening until 10.30.
 February 26, 1908, Portland, Oregon:
 Dictated 20 letters. Three interviews. Arranged papers in Alaska coal cases. Reviewed testimony taken in the Portland Coal & Coke Co. case preparatory to conference with asst. U. S. attorney at Seattle, Wash.
 February 26, 1908, Portland, Oregon:
 Dictated 20 letters. Three interviews. Reviewed testimony taken in the Portland Coal & Coke Company cases; preparatory to conference with asst. U. S. attorney at Seattle, Wash. Arranged papers in Alaska coal cases.
 February 27, 1908, Portland, Oregon:
 Four interviews. Dictated 19 letters. Approved 100 proof notices. Attended to current work.
 February 27, 1908, Portland, Oregon:
 Four interviews. Dictated 19 letters. Approved 100 proof notices. Attended to current work.
 February 28, 1908, Portland, Oregon:
 Dictated 28 letters. Approved 48 proof notices. Assigned 15 cases to Special Agent Alexander. Attended to current work. Worked in evening until 10.30.
 February 28, 1908, Portland, Oregon:
 Dictated 28 letters. Approved 48 proof notices. Assigned 15 cases to Agent Alexander. Attended to current work. Worked in evening until 10.30.
 February 29, 1908, Portland, Oregon:
 Made monthly accounts. Dictated 30 letters. Worked on Alaska coal cases. Approved 50 proof notices.
 Spokane will be my P. O. address March 4 to 7, inc.
 February 29, 1908, Portland, Oregon:
 Made monthly accounts. Dictated 30 letters. Approved 50 proof notices. Worked on Alaska coal cases.

Daily record of work and expenses, March, 1908.

[All signed "L. R. Glavis, special agent."]

March 1, 1908, Portland and en route:
 Worked all morning dictating data for Mr. Heney's information. Worked all evening preparing for trip. Issued T. R. No. 26992 to Seattle, Wash. N. P. Ry. Co., sleeper to Seattle, \$2.00. Bus fare, hotel to depot, .25. Left Portland at 11.45 p. m.
 March 2, 1908, Seattle, Wash.:
 Arr. Seattle at 7 a. m. Fee to porter on sleeper, .25. Bus fare, depot to hotel, .25. In conference with asst. U. S. attorney in re Portland Coal & Coke Co. case; also Wil-

son coal cases. Bus fare, hotel to depot, .25. Interviewed Cap't Arnold E. Neate in re Alaska coal cases. N. P. Ry. Co., fare, Seattle to Spokane, 10.10. N. P. Ry. Co., sleeper, Seattle to Spokane, 2.50. Telegram to Jones at Portland, .20. Left Seattle at 9.30 p. m.

March 3, 1908, Spokane, Wash.:

Fee to porter on sleeper, .25. Arr. Spokane at 11.30 a. m. Telegram from Clerk Miller, .50. Secured information from Ag't Doyle in re Alaska coal cases. Arranged and examined papers in Alaska coal cases.

March 4, 1908, Spokane, Wash.; Harrison, Ida.; Wallace, Ida.:

Left Spokane at 9 a. m. Coeur d'Alene & Spokane Ry. Co., fare, Spokane to Harrison, Ida., & return, \$2.50. Coeur d'Alene & Spokane Ry. Co., parlor car fare, Spokane to Coeur d'Alene, .25. Arr. Harrison at 11.40 a. m. Left Harrison at 12.15 p. m. Arr. Wallace at 2.30 p. m. O. R. & N. Co., fare, Harrison to Wallace, \$1.50. Interviewed F. F. Johnson and Orville D. Jones in Alaska coal cases. Portland will be my p. o. address on the 10th.

March 5, 1908, Wallace, Idaho; Harrison, Idaho; Spokane, Wash., en route to Seattle:

Took affidavit of F. F. Johnson and Orville D. Jones in re Alaska coal cases. Left Wallace at 12.15 p. m., arr. Harrison at 2.30 p. m. O. R. & N. Co., fare, \$1.50. Left Harrison at 2.35 p. m., arr. Coeur d'Alene at 4.10 p. m. Arr. Spokane at 5 p. m. Coeur d'Alene & Spokane Ry. Co., parlor car fare, .25. Issued T. R. No. 26993 for Agt. Jones & myself to Seattle. G. N. R. R., sleeper, Spokane to Seattle, \$2.50. Left Spokane at 5.15 p. m.

March 6, 1908, Seattle, Wash., en route to Portland:

Arr. Seattle at 7 a. m. Fee to porter on sleeper, \$.25. Took affidavit of Clarence Cunningham and secured possession of certain papers and records in re Alaska coal cases. Interviewed M. C. Moore in re above case. Wired G. L. O. in re above case. Left Seattle at 10.20 p. m. Rode on T. R. of Agt. Jones. N. P. Ry. Co., sleeper, Seattle to Portland, \$2.00.

March 7, 1908, Portland:

Arr. Portland at 7 a. m. Fee to Porter on sleeper, \$.25. Bus fare, depot to hotel, \$.25. Dictated 14 letters. Read reports of agents; approved accounts of Ag't. Stoner. 4 interviews.

March 8, 1908, Portland:

Sunday.

March 9, 1908, Portland:

Dictated 16 letters; approved Ag't. Pollard's account; conferred with U. S. Judge Wolverton in re appointment of U. S. commissioners. In conference with U. S. attorney's office. Worked in evening checking up work, etc., until 10.30 p. m.

March 10, 1908, Portland:

Dictated 25 letters; 7 interviews; in conference with U. S. attorney's office in re presentation of cases before grand jury. Worked in evening until 10.30 p. m.

March 11, 1908, Portland:

Dictated 9 letters; 3 interviews. Called upon attorneys for defendants in the Portland Coal & Coke Co. cases. Attended to routine work of office; approved 75 proof notices.

March 12, 1908, Portland, Oregon:

Attended to routine work of office. Approved 30 proof notices. Dictated 22 letters. Worked in evening until 10.30.

March 13, 1908, Portland, Oregon:

Approved 20 proof notices. Dictated 10 letters. 4 interviews. Worked on records. Worked in evening until 11 o'clock.

March 14, 1908, Portland, Oregon:

Attended to current work of office. Dictated 15 letters. Approved 33 proof notices. Worked in the evening until 10.30.

March 15, 1908, Portland, Oregon:

Worked on records. Attended to current work of office. Worked all forenoon Sunday.

March 16, 1908, Portland, Oregon:

Attended to routine work of office. Dictated 8 letters. Approved 30 proof notices. 7 interviews. Worked in evening until 10.30.

March 17, 1908, Portland, Oregon:

Attended to current work of office. Dictated 12 letters. Approved 13 proof notices. Worked in evening until 10.30.

March 18, 1908, Portland, Oregon:

Attended to current work. Dictated 20 letters. Approved 27 proof notices. 1 interview.

March 19, 1908, Portland, Oregon:
Dictated 14 letters. Approved 6 proof notices. Attended to current work. Worked in evening until 10.30.

March 20, 1908, Portland, Oregon:
Attended to current work. Dictated 33 letters. Approved 17 proof notices. 4 interviews. Conferred with agents in re assignments. Worked in evening until 10.45.

March 21, 1908, Portland, Oregon:
Approved 36 proof notices. Conferred with agents in re hearings. 3 interviews. Worked in evening until 10.30.

March 22, 1908, Portland, Oregon:
Attended to current work of office. Dictated 12 letters. 4 interviews. Worked until 10 p. m.

March 23, 1908, Portland, Oregon:
Attended to current work of office. Approved 73 proof notices. Dictated 8 letters. Worked in evening until 10 p. m.

March 24, 1908, Portland, Oregon:
Worked on records and current office work. Dictated 5 letters. Approved 13 proof notices. 7 interviews.

March 25, 1908, Portland, Oregon:
Attended to current work. Dictated 18 letters. Worked in evening until 10 p. m.

March 26, 1908, Portland, Oregon:
Attended to current work in office. Dictated 7 letters. Approved 46 proof notices. Worked in evening until 9 p. m.

March 27, 1908, Portland, Oregon:
At U. S. atty's office arranging and preparing evidence in Umatilla cases. In conference with U. S. atty. in re said cases. Dictated 5 letters and 1 statement.

March 28, 1908, Portland, Oregon:
At U. S. atty's office arranging and preparing evidence in Umatilla cases. In conference with U. S. atty. in re same. In conference with T. B. Neuhausen in re transfer of records.

March 29, 1908, Portland, Oregon:
Sunday. Worked all forenoon on records. Dictated 5 letters.

March 30, 1908, Portland, Oregon:
In conference with Spl. Insptr. Neuhausen in re transfer of records. Attended to current work of office. Dictated 4 letters. Approved 31 proof notices. Worked in evening until 11 p. m.

March 31, 1908, Portland, Oregon:
Attended to current office work. Six interviews. Dictated 12 letters. Approved 26 proof notices. In conference with T. B. Neuhausen in re transfer of records.

Daily record of work and expenses, April, 1908.

[All signed "L. R. Glavis, Special Agent."]

April 1, 1908, Portland, Oregon:
Made out monthly account. Secured services of a stenographer. Instructed stenographer in re duties, etc. Attended to current work. Wrote 5 letters. Approved 23 proof notices.

April 2, 1908, Portland, Oregon:
Attended to routine work of office.

April 3, 1908, Portland, Oregon, & Salem, Oregon:
Attended to routine work of office. Dictated 14 letters. Left Portland, Ore., at 3.35 p. m. Arrived Salem, Ore., at 5:45 p. m. Oregon Electric R. R. Co., 2 fares, Portland to Salem, Ore., \$3.00; S. P. Ry. Co., 2 fares, Salem to Portland, Oregon, \$3.30.

April 4, 1908, Portland, Oregon:
Had 5 interviews; dictated 15 letters. Attended to current work in office.

April 5, 1908 (Sunday), Portland, Oregon:
Attended to current work, arranging files, etc.

April 6, 1908, Portland, Oregon:
Attended to current work of office. Dictated 24 letters. 3 interviews. Approved 14 proof notices. Worked in evening until 11 o'clock.

April 7, 1908, Portland, Oregon:
In conference with Chief Field Service Division H. H. Schwartz.

April 8, 1908, Portland, Oregon:
In conference with Chief Field Service Division H. H. Schwartz. Left Portland 11.45 p. m.; N. P. Ry. Co., fare to Seattle and return, \$11.20; N. P. Ry. Co., sleeping car, fare \$2.00.

April 9, 1908, Seattle, Washington:

Arrived Seattle 7.15 a. m. Fee to porter of sleeper, 25c. Conferred with Agents Stoner and Kennedy in re coal land investigation. Worked on coal land investigations. Conferred with Judge Ballinger in re same. Wired G. L. O. for all records pertaining to Alaska coal cases.

April 10, 1908, Seattle, Washington:

Took affidavit of J. G. Smith. Interviewed A. M. Arnold in re his coal claim. Interviewed Clarence Cunningham in re Alaska coal claim. Instructed Agents Stoner and Kennedy in re making investigations.

April 11, 1908, Seattle, Washington:

Took affidavit of S. C. Chezum in re his coal claim and claims for which he is agent. Conferred with Judge R. A. Ballinger in re Alaska coal cases. Conferred with U. S. atty. in re P. Co. coal cases & Wilson coal cases and referring to evidence obtained in Alaska coal cases with a view to criminal prosecution. Interviewed Mr. McDonald in re Alaska cases. Left Seattle 10.20 p. m. N. P. Railway Co. fare to Portland, \$5.60; N. P. Railway Co. sleeper to Portland, \$2.00.

April 12, 1908, Portland, Oregon:

Arrived Portland 7 a. m. Fee to porter sleeper, 25c. Worked in office all forenoon reading accumulated correspondence, etc.

April 13, 1908, Portland, Oregon:

Dictated 25 letters. Four interviews. Worked on accounts expense of hearing. Attended to service of subpoenas. Worked in office until 10.00 p. m. making new cases.

April 14, 1908, Portland, Oregon:

Dictated 20 letters. Three interviews. Looked up land decisions in reference to interpreting rules of practice.

April 15, 1908, Portland, Oregon:

Dictated 14 letters. Conferred with agents in re work. At U. S. atty. office in re preparation of list for transferring records of Neuhausen. Three interviews. Worked in evening until 10.30 looking up land decisions in reference to Indian allotments drawing checks in payment of hearings, and working on hearing accounts.

April 16, 1908, Portland, Oregon:

Dictated 20 letters. Prepared and submitted quarterly account. 1 quart bottle of ink, \$.75. Worked on records turned over by Special Inspector Neuhausen. Worked in evening until 10.

April 17, 1908, Portland, Oregon:

Dictated 18 letters. Assisting Agent Norton in preparing reports on cases and attended to the preparation of records concerning payments made for hearings. 4 interviews. Attended to routine work of office.

April 18, 1908, Portland, Oregon:

Dictated 30 letters. 3 interviews. Worked in office until 10.30.

April 19, 1908 (Sunday), Portland, Oregon.

April 20, 1908, Portland, Oregon:

Attended to routine work in office. Dictated 28 letters. 7 interviews. Spent entire morning in securing and dictating affidavit of Jerad McIrwin. N. P. Railway fare, Portland to Seattle, \$5.60; N. P. Co. sleeper, Portland to Seattle, \$2.00. Left Portland 11.45 p. m.

April 21, 1908, Seattle, Washington:

Fee to porter on sleeper, 25c. Arrived Seattle 7.15 a. m. In conference with Agents Kennedy, Stoner & Jones in re Alaska coal cases; instructed them in re same. Conferred with U. S. atty. in re criminal prosecution. Spent all afternoon in interviewing H. R. Harriman; John Davis & Claude Davis in re their Alaska coal land entries, and those in Hunt group. Examined the minutes of meeting of Alaska Petroleum & Coal Co. Transfer satchell from hotel to depot, 25c. N. P. Railway fare to Portland \$5.60; N. P. Railway sleeper \$2.00. Left Seattle 10.20.

April 22, 1908 (Sunday), Portland, Oregon:

Attended to current work. Worked on records.

(Across face:) Beefsteak.

April 22, 1908, Portland, Oregon:

Arrived Portland 7 a. m. Fee to porter on sleeper 25c. Dictated 2 letters. Read and approved 30 special agents' reports. Grants Pass will be my P. O. address until Apr. 28.

April 23, 1908, Portland, Oregon:

Assigned cases for Special Agent Norton. Approved special agents reports. Dictated 5 letters. S. P. Railway Co. fare Portland to Grants Pass, 8.95; S. P. Railway Co. sleeper, 2.00; purchase 1 roll Kodak films, .70. Left Portland at 7.45.

April 24, 1908:

Fee to porter on sleeper, 25¢. Arrived in Grants Pass at 9.20. Left Grants Pass with J. W. McIrwin at 10.30. Drove to sec. 36, Tp. 34 S., R. 5 W. Team hire, \$4.50. Purchased 1 roll Kodak films, 70¢. Made field examination of settlement claims of M. N. Frantz; B. C. Frantz. Paid J. W. McIrwin services as assistant, \$4.00. Remained all night at M. N. Frantz's cabin.

April 25, 1908:

Left Frantz's cabin at 6 a. m. Made field examinations of settlement claims of Oscar Olsen; A. R. Jones; H. Henry; — Burnham; William Young; B. A. Seaborg. Took affidavits of M. N. Frantz, B. C. Frantz, Oscar Olsen, A. R. Jones, H. Henry, — Burnham, Wm. Young, B. A. Seaborg. Paid J. W. McIrwin services as assistant, \$4.00. Remained all night at Seaborg's cabin.

April 26, 1908:

Left Seaborg's cabin at 6.30 a. m. Made field examinations of settlement claims of L. A. Hare, T. H. Hickethier; took their affidavits in re same. Walked to Placer. Arrived at Placer at 6.30 p. m. Walked 20 miles. Paid J. W. McIrwin services as assistant, \$4.00.

April 27, 1908:

Left Placer at 6 a. m. Drove to Leland. Arrived Leland at 8 a. m. Team hire, \$2.25. Left Leland at 8.45. Arrived at Grants Pass 9.30. S. P. Railway fare, 60¢. Made investigation relative to case under investigation. Left Grants Pass at 11 a. m. Arrived Portland 11.15 p. m. S. P. Railway fare, 8.95. S. P. parlor car fare, 1.50. Fee to porter on parlor car, 25¢.

April 28, 1908, Portland, Oregon:

Dictated 12 letters. 4 interviews. Reading over papers and preparing making 150 new cases. Worked in evening until 10 p. m.

April 29, 1908, Portland, Oregon:

Cross-examined Calkins and his two proof witnesses in re his commutation proof made before U. S. land office. Dictated 8 letters. 3 interviews. Sent telegram to Special Agent Spaulding. Sent two telegrams to G. L. O. in re necessity of additional force.

April 30, 1908, Portland, Oregon:

Examined 5 monthly accounts. Dictated 15 letters. Prepared monthly account. 2 interviews. Took affidavit of Davidson in re his Alaska coal entry. Oakland, Cal., will be my P. O. address on May 5th.

Daily record of work and expenses, May, 1908.

[All signed "L. R. Glavis, special agent."]

May 1, 1908, Portland, Oreg.:

Personally wrote five-page letter to G. L. O. in re necessity for additional force. Attending to the clerical work of the office. Oakland will be my P. O. address until May 9th.

May 2nd, 1908, Portland, Oreg.:

Approved 40 proof notices. Attending to routine work of the office.

May 3rd, 1908 (Sunday), Portland, Oreg.

May 4th, 1908, Portland, Oreg.:

4 interviews. Attending to routine work of the office. In conference with U. S. atty. concerning data necessary to commence suits to set aside patents.

May 5th, 1908, Portland, Oreg.:

Wrote 10 letters. Approved 40 proof notices. 4 interviews. Worked in the office until 10 o'clock attending to routine work of the office.

May 6th, 1908, Portland, Oreg.:

Attending to routine work of the office. Wrote 15 letters. In conference with U. S. atty. relative to grand jury matters.

May 7th, 1908, Portland, Oreg.:

Attending to routine work of the office. Wrote 16 letters. In conference with U. S. atty. relative to grand jury matters.

May 8th, 1908, Portland, Oreg.:

Wrote 7 letters. 5 interviews. Conferred with U. S. Atty. Worked in the evening until 10 o'clock.

May 9th, 1908, Portland, Oreg.:

Attending to routine work of the office.

May 10, 1908 (Sunday), Portland, Oreg.:

Worked half day.

May 11th, 1908, Portland, Oregon:

Approved 75 proof notices. Wrote 8 letters. 3 interviews. Instructed agents relative to information required in re suits to set aside patents. Worked on evidence in Umatilla case. Worked in the evening until 10 p. m. attending to routine work of the office.

May 12, 1908, Portland, Oregon:

Attending to routine work of office. Personally wrote 4 letters. Attended to clerical work of the office. Clerk Miller assisting U. S. Atty. in preparing indictments in Umatilla case.

May 13, 1908, Portland, Oregon:

Attended to clerical work of the office. Clerk Miller assisting U. S. Atty. in preparing indictments in Umatilla case. In conference with U. S. Atty.

May 14, 1908, Portland, Oregon:

Examined abstracts of titles in re suits to be commenced to set aside patents. Conferred with U. S. Atty. relative to additional evidence desired in Umatilla case. Wrote 10 letters. Worked in evening until 10 p. m. attending to routine work of the office. Clerk Miller typewriting indictments in Umatilla cases.

May 15, 1908, Portland, Oregon:

5 interviews. Wrote 15 letters. Conferred with J. C. McIrwin relative to my criminal cases in southern Oregon. Interviewed 2 persons in Portland in re same. Worked in the evening listing papers turned over by Neuhausen.

May 16th, 1908, Portland, Oregon:

Dictated 32 letters. Made 5 reports to U. S. Atty., with a view to criminal prosecution. In conference with U. S. Atty. relative to evidence in Umatilla and other cases.

May 17th, 1908 (Sunday), Portland, Oregon:

Worked half a day on matters pertaining to suits to set aside patents.

May 18th, 1908, Portland, Oregon:

Made 2 reports to U. S. Atty. with view to criminal prosecution. Dictated 12 letters. Conferred with the U. S. Atty. in re matters under investigation. Worked in the evening until 10.30, assisted by Agents Pollard, Jones, Stoner, and Spaulding, working on the abstract titles in which suits to set aside patents are to be brought.

May 19, 1908, Portland, Oregon:

4 interviews. Dictated 15 letters. In conference with U. S. Atty. in re suits to set aside patents and criminal cases. Worked in the evening until 9.30.

May 20th, 1908, Portland, Oregon:

Dictated 10 letters. Conferred with U. S. Atty. in re civil and criminal cases. Made arrangements for the purchase of about \$400 worth of office furniture. Secured temporary services of stenographer for the U. S. Atty. Attended to routine work of office.

May 21, 1908, Portland, Oregon:

Dictated 9 letters. 5 interviews. In conference with U. S. Atty. in re cases to be presented to the grand jury

May 22, 1908, Portland, Oregon:

Dictated 7 letters. 9 interviews. Returned 200 proof notices. In conference with U. S. Atty. preparing cases to be presented to grand jury. Secured bids for office furniture. Worked in the evening until 10.30 preparing cases to be brought to set aside patent and grand jury cases.

May 23rd, 1908, Portland, Oregon:

Worked on suits setting aside 44 patents. In conference with U. S. Atty. relative to cases to be presented to grand jury, also civil cases. 2 interviews.

May 24th, 1908 (Sunday), Portland, Oregon:

Worked all day and in the evening preparing bills of complaint setting aside patents.

May 25th, 1908, Portland, Oregon:

In attendance before the grand jury from 10 to 4.30. Wrote 15 letters.

May 26th, 1908, Portland, Oregon:

Made 19 partial reports in re fraudulent lieu land selections. In conference with U. S. Atty. relative to files. Worked in evening until 8.30.

May 27, 1908, Portland, Oregon:

Reviewing the evidence in perjury cases in 34 S. 5 West. Conferred with U. S. Atty. in re criminal cases and grand jury matters. Dictated 19 letters. 6 interviews. Conferred with special agents. Worked in the evening until 10 p. m.

May 28th, 1908, Portland, Oregon:

In conference with U. S. Atty. Dictated 12 letters. 7 interviews. Attending to routine work of the office.

May 29th, 1908, Portland, Oregon:

Conferred with U. S. Atty. in re cases to be presented to grand jury, and worked on Umatilla cases. Dictated 17 letters. Worked in the evening attending to routine work of the office.

May 30th, 1908 (legal holiday), Portland, Oregon:

Worked forenoon attending to routine work of office.

May 31, 1908 (Sunday), Portland, Oregon.

Daily record of work and expenses, June, 1908.

[All signed "L. R. Glavis, special agent."]

June 1st, 1908, Portland, Oregon:

In conference with U. S. atty. Assigned work to new agents and instructing them as to their duties. Dictated 8 letters. Worked in evening until 9.30.

June 2, 1908, Portland, Oregon:

Worked on cases for presentation to grand jury. Dictated 25 letters; 4 interviews. Instructing new agents as to duties. Assigned cases for field examinations. Worked in the evening until 10 p. m.

June 3rd, 1908, Portland, Oregon:

In conference all morning with U. S. atty. 7 interviews. 15 letters dictated.

June 4th, 1908, Portland, Oregon:

Made out monthly account. Attended to disbursing account. Dictated 10 letters. In conference with U. S. atty. concerning grand jury cases. Worked in the evening until 9 o'clock attending to routine work of the office.

June 5, 1908, Portland, Oregon:

Checked and compared disbursements for expenses of hearings. Dictated 15 letters. 5 other interviews. Worked in the evening until 10 p. m.

June 6, 1908, Portland, Oregon:

Dictated 20 letters. Assigned cases to be investigated by Agent Norton. 4 interviews.

June 7, 1908 (Sunday), Portland, Oregon:

Reading Special Agent Norton's reports. Telephoned to receiver at The Dalles.

June 8, 1908, Portland, Oregon:

Worked from 8 to 9 a. m. Worked from 11.30 to 2.15. Worked from 4 to 6. Dictated 15 letters. 9 interviews. Left Portland at 8 p. m. Arrived at The Dalles 11.30. O. R. & N. Co. fare Portland to The Dalles and return, \$4.00; parlor-car fare, .50.

June 9, 1908, The Dalles and Portland:

Left The Dalles at 1.45 p. m. Arrived Portland 5.15 p. m. Wired G. L. O. to suspend Long. Worked in evening until 9.30 p. m.

June 10, 1908, Portland, Oregon:

Dictated 30 letters. Made affidavit in re Cunningham group coal cases. Approved 100 proof notices. Worked in the evening until 9 p. m. arranging evidence in cases to be presented to grand jury.

June 11, 1908, Portland, Oregon:

In attendance before grand jury from 9 a. m. to 4 p. m. Testified in the cases of U. S. vs. Meade and U. S. vs. Hazelwood. Dictated 12 letters.

June 12, 1908, Portland, Oregon:

In attendance before grand jury from 9 to 3 p. m. Dictated 23 letters. Assigned 100 cases for field work.

June 13, 1908, Portland, Oregon:

Dictated 34 letters. Attending to routine work of the office.

June 14, 1908 (Sunday), Portland, Oregon:

Directing Special Agent Pollard as to inspection of Roseburg land office.

June 15, 1908, Portland, Oregon:

Took affidavit of H. C. McIntosh. Gave testimony in case of U. S. vs. Hattie E. Blue involving H. E. No. 7220, Sacramento, California, district. Dictated 18 letters. Worked in evening until 9.30 p. m.

June 16, 1908, Portland, Oregon:

Testified before grand jury and examined witnesses in re my perjury cases in 34 South 5 West. Dictated 20 letters. 5 interviews.

June 17, 1908, Portland, Oregon:

Testified before grand jury and examined witnesses in re my perjury cases in 34 South and 5 West. Dictated 8 letters. 6 interviews.

June 18, 1908, Portland, Oregon:

Dictated 23 letters. 5 interviews. Attending to routine work of the office.

June 19th, 1908, Portland, Oreg.:
Assisting U. S. atty. in preparing indictments in land cases. Dictated 17 letters.
4 interviews.

June 20th, 1908, Portland, Oreg.:
Assisting U. S. atty. in preparing indictments in land cases. Dictated 22 letters.
In conference with Special Agent Love in re Alaska matters.

June 21, 1908, (Sunday) Portland, Oreg.

June 22, 1908, Portland, Oreg.:
Attending to routine work of office. Approved 50 proof notices. 8 interviews.
Dictated 18 letters.

June 23, 1908, Portland, Oreg.:
Approved 75 proof notices. Checking and comparing records. Worked in evening until 9 p. m.

June 24, 1908, Portland, Oreg.:
Checking and comparing card index with assignment cards to ascertain whether all cases to be investigated are on assignment cards.

June 25, 1908, Portland, Oreg.:
In conference with U. S. atty. relative to cases to be presented to grand jury. Dictated 20 letters. 4 interviews. Worked in the evening until 10 p. m. working on cases preparatory to submitting to U. S. atty. for suit to set aside patent.

June 26, 1908, Portland, Oreg.:
Dictated 18 letters. 6 interviews. Assigning cases to agents for field investigations. Approved 10 reports of agents. Worked in the evening until 10 p. m., working on cases preparatory to submitting to U. S. atty. for suit to set aside patent.

June 27, 1908, Portland, Oreg.:
Made report to U. S. atty. submitting papers and evidence in 30 cases with a view to institute suit to set aside patent. 5 interviews. Dictated 13 letters. Approved 40 proof notices.

June 28, 1908 (Sunday), Portland, Oregon.

June 29, 1908, Portland, Oreg.:
Preparing data for tabulation of total number of all kinds of cases by land districts. Dictated 17 letters. Approved 43 proof notices.

June 30, 1908, Portland, Oreg.:
Dictated 22 letters. Examined and approved 8 monthly accounts. Examined and approved special agents' reports.

Daily record of work and expenses, July, 1908.

[All signed "L. R. Glavis, Special Agent."]

July 1, 1908, Portland, Oreg.:
Approved 95 proof notices. 4 interviews. Examined and approved special agents' reports. Assigned cases for investigation. Instructed agents as to manner of investigation. Dictated 12 letters.

July 2, 1908, Portland, Oreg.:
Six interviews. Examined and approved special agents' reports. Assigned cases for investigation. Instructed agents as to manner of investigation. Dictated 8 letters.

July 3, 1908, Portland, Oreg.:
Dictated 33 letters. Transfer of sack of mail from post-office to office, \$0.50. Four interviews.

July 4, 1908 (Saturday, legal holiday), Portland, Oreg.

July 5, 1908 (Sunday), Portland, Oregon.

July 6, 1908, Portland, Oregon:
Dictated 23 letters. Dictated affidavit of Emil Arndt in re his H. E. Assisted U. S. atty. in examining witnesses in civil suits to set aside patent in which C. A. Smith Lumber Co. are defendants. Transfer of sack of mail from post-office to office, .50. Worked in the evening until 10 p. m.

July 7, 1908, Portland, Oregon:
Prepared stipulation in Anderson cases. Telephoned Higby, Roseburg, in re Anderson cases. Dictated 6 letters. Instructed Agent Cowgill in re cases to be reported. Conferred with Agent Stoner in re unlawful enclosure reports.

July 8, 1908, Portland, Oregon:
Conferred with officials of the Reclamation Service in re cooperation in investigating matters within the projects. Submitted 6 unlawful cases to the U. S. attorney with a view to criminal and civil proceedings. Dictated 20 letters. Interviewed N. Thomas at county jail. Read and approved agent's reports. 3 interviews. Worked in the evening until 10 p. m.

July 9, 1908, Portland, Oregon:

In conference with Secretary of the Interior. Dictated 7 letters. Conferred with R. & R. Vancouver land office in re pending cases investigated by me.

July 10, 1908, Portland, Oregon:

Made 6 unfavorable reports. Conferred with Secret Service Agent Steve Connell in re Oregon matter. Conferred with U. S. Atty. in re cases for criminal prosecution. Made report to the secretary in reference to giving my opinion as to proper manner of conducting cases within forest reserve. Issued T. R. 3903 to Seattle and return. N. P. Railway Co. sleeper to Seattle \$2.00. Dictated 8 letters. 4 interviews. Left Portland 11.45 p. m.

July 11, 1908, Portland, Oregon:

Arrived Seattle 7 a. m. Fee to porter on sleeper, .25. Conferred with U. S. Atty. in re case U. S. vs. Wilson Coal Co. and case U. S. vs. Portland Coal & Coal Co. Conferred with atty. in Wilson Coal Co. in re hearing. Conferred with the commissioner in re Oregon matters. N. P. Railway Co. Seattle to Portland, sleeper, 2.00. Left Seattle at 10 p. m.

July 12, 1908 (Sunday), Portland, Oregon:

Arrived Portland 7 a. m. Fee to porter on sleeper, .25. Conferred with Mr. A. C. Shaw, of the Forest Service, in re Anderson cases and general matters of interest between the two services.

July 13, 1908, Portland, Oregon:

Dictated 20 letters. Assigned cases for field investigation to Agent Alexander. Held conference with U. S. Atty. and assistant to Atty.-General Becker in reference to transfer of records and cases to be handled by Mr. Neuhausen.

July 14, 1908, Portland, Oregon:

Dictated 15 letters. Approved 12 agents' reports. 4 interviews. Assigned cases for field investigation to Agent Norton.

July 15, 1908, Portland, Oregon:

Made two favorable reports in re timber and stone applications of Albert Kimball and Van Murphy. Dictated 7 letters. Two interviews. Preparing cases in forest reserve to be turned over to Forest Service.

July 16, 1908, Portland, Oregon:

Dictated 24 letters. Four interviews. Checking cases in forest reserve and preparing to transmit same to Forest Service.

July 17, 1908, Portland, Oregon:

In conference with commissioner. Approved 75 proof notices. Dictated 4 letters.

July 18, 1908, Portland, Oregon:

In conference with commissioner. Approved 35 proof notices.

July 19, 1908 (Sunday), Portland, Oregon:

July 20, 1908, Portland, Oregon:

Paid express for transfer of papers from postoffice to custom house, .50. In conference with Mr. McGhee of the General Land Office in reference to Lakeview matters. Dictated 40 letters. Three interviews.

July 21, 1908, Portland, Oregon:

Issued T. R. No. 3904 for Seattle. Transfer of baggage hotel to depot, .50. Dictated 35 letters, arranging cases to be assigned to agents. Five interviews. Left Portland 11.45 p. m. Bus fare, hotel to depot, .25.

July 22, 1908, Seattle, Wash.:

Arrived at Seattle at 7 a. m. Fee to porter on sleeper, .25. Trans. baggage, depot to hotel, .50. Made arrangements for trip to Alaska. Issued T. R. No. 3905 for 2 tickets to Nome and return (\$400.00). One kodak film, .75.

July 23, 1908, Seattle, Wash., en route to Juneau:

One kodak film, \$.75. Transfer baggage, hotel to wharf, \$.25. Left Seattle at 10 a. m. on the steamer Jefferson, en route to Juneau.

July 24, 1908, en route to Juneau:

Fee to steward, \$.25.

July 25, 1908:

Fee to steward, \$.25. Arrived Ketchikan at 7 p. m. Made investigation as to timber trespass. Left Ketchikan at 8.30 p. m.

July 26, 1908, Wrangell Tyee:

Fee to steward, \$.25. Arrived Wrangell at 7.30 a. m.; ascertained timber trespass by Mill Co. Left Wrangell at 8.30 a. m.; arrived Tyee at 5.30 p. m. Left Tyee at 6.15 p. m.

July 27, 1908, Juneau:

Arrived at Juneau 5 a. m. Fee to steward, \$.25. Transfer baggage, wharf to hotel, .50. Secured information at surveyor-general's office—partially inspected land office. Interviewed J. P. Jorgenson in re settlement for timber. Transfer baggage hotel to wharf, .50. 1 roll kodak films, .50. Left Juneau at 6.30 p. m.

July 28, 1908, Skagway:
 Arrived Skagway at 7 a. m. Fee to steward, \$.25. Left Skagway at 9.30 a. m.
 Arrived White Horse at 5.30 p. m.
 July 29, 1908, en route:
 Left White Horse on steamer *Casca* at 2 a. m. Fee to steward, \$.25.
 July 30, 1908:
 En route to Dawson, B. C. Fee to steward, \$.25.
 July 31, 1908, Dawson:
 Arrived Dawson at 8.30 a. m. Fee to steward, \$.25. Interviewed Mr. Hornburg, manager N. A. T. & T. Co., and the manager of the N. C. Co., in re cordwood purchases. Secured services of boatmen and hired canoe.

Daily record of work and expenses, August, 1908.

[All signed "L. R. Glavis, special agent."]

August 1, 1908, Dawson:
 Left Dawson at 1 a. m. Enroute to Eagle in canoe. Secured information in re timber trespasses at different points along the Yukon River.
 August 2, 1908 (Sunday), Eagle:
 Arrived Eagle at 1.30 a. m. To Ely Verreau for services as boatman and hire of boat, \$15.00. Secured proposition of settlement for \$300 for 600 cords of wood cut by John Gay and \$200 being stumpage value of 400 cords of wood cut by Henry Nicholson. Explained the regulations governing applications to cut timber. Secured information in re winter travel through Alaska.
 August 3, 1908, Eagle:
 Made arrangements with Jules Marion to allow agents the use of cabins along the Yukon River. Also arranged to purchase a dog team for winter work. Left Eagle at 11.00 a. m., on steamer *Susie*. Fee to steward on steamer *Susie*, \$.25.
 August 4, 1908, Circle:
 Arrived Circle 11 p. m. Interviewed postmaster in re timber trespasses. Left Circle at 11.45 p. m. Fee to steward, \$.25.
 August 5, 1908, Tanana:
 Arrived at Tanana at 5.30 a. m. Made arrangements with Mr. Milly, Mgr. N. C. Co., to secure settlement for \$1,000.00 in re 2,000 cords involved. Explained to various parties rules and applications to purchase timber. Arranged with officers in charge at Ft. Gibbon for care of dog team next winter.
 Left Tanana at 12.30 p. m. Fee to steward, \$.25.
 August 6, 1908, Nulato:
 Arrived at Nulato 5 a. m. Explained rules governing applications to cut timber. Fee to steward, \$.25.
 August 7, 1908, Nulato:
 Left Nulato at 5 p. m. Fee to steward, \$.25.
 August 8, 1908 (Saturday):
 Fee to steward, \$.25.
 August 9, 1908 (Sunday), St. Michaels:
 Fee to steward, \$.25. Arrived St. Michaels at 2 p. m.
 August 10, 1908 (Monday), St. Michaels:
 Interviewed officials of N. C. Co., in re settlement of cord-wood trespasses. Left St. Michaels at 7 p. m. on steamer *Corwin*.
 August 11, 1908, Nome-Ft. Davis:
 Arrived at Nome 11.00 a. m. Lighterage from Str. *Corwin* to beach at Nome, \$5.00. Transfer of baggage, beach to hotel, \$.75. Left Nome at 2 p. m. and drove to Ft. Davis; interviewed Major Creppe in re mining claim of N. A. T. & T. Co. on reservation and examined claim and papers of War Department to be adversely reported. Returned to Nome at 6 p. m.
 August 12, 1908 (Wednesday), Nome:
 Examined records in recorder's office in re mining claim of N. A. T. & T. Co.; made copy of notice. Took affidavits of C. H. Nerbahr in re mining claim. Worked on above case. Commenced investigation of land office.
 August 13, 1908 (Thursday), Nome-Dry Creek:
 Left Nome at 9 a. m. and drove to Dry Creek; interviewed N. P. R. Hatch, former agent of N. A. T. & T. Co. in re their mining claim. Returned to Nome at noon. Took affidavit of J. F. Plein in re above claim. Instructed R. & R. in re new system of keeping records.
 August 14, 1908 (Friday), Nome:
 Took affidavits of Homner Bounds and N. P. R. Hatch in re N. A. T. & T. Co.'s mining claim. Made investigation of 3 mining claims to be favorable reported. Instructed R. & R. in re system of keeping records.

August 15, 1908 (Saturday), Nome:
 Instructed R. & R. in re new system of keeping records; four interviews in re N. A. T. & T. Co. mining claim. Transfer of baggage, hotel to beach, \$.75. Left Nome at 8 p. m. Lighterage Nome beach to Str. *Northwestern*, \$2.00.

August 16, 1908 (Sunday):
 En route to Seattle. Fee to steward on Str. *Northwestern*, \$.25.

August 17, 1908 (Monday):
 En route to Seattle. Fee to steward, \$.25.

August 18, 1908 (Tuesday):
 En route to Seattle. Fee to steward, \$.25.

August 19, 1908 (Wednesday):
 En route to Seattle. Fee to steward, \$.25.

August 20, 1908 (Thursday):
 En route to Seattle. Fee to steward, \$.25.

August 21, 1908 (Friday):
 En route to Seattle, fee to steward, \$.25.

August 22, 1908 (Saturday):
 En route to Seattle, fee to steward, \$.25.

August 23, 1908:
 Fee to steward, \$.25. Arrived Seattle 4 p. m. Transfer of baggage steamship wharf to Union Depot, \$.50. Checking hand baggage, \$.20. N. P. Railway Co., fare Seattle to Portland, \$.60. N. P. Railway Co., sleeper Seattle to Portland, \$2.00.

August 24, 1908:
 Left Seattle 1.30 a. m. Arrived Portland 9.30 a. m. Fee to porter on sleeper, \$.25. Transfer of baggage depot to hotel, \$.50. Read correspondence. Dictated 20 letters. Telegraphed G. L. O. in re appointment of clerk: Read and approved special agents' reports. Worked in the evening until 10 p. m.

Tuesday, August 25, 1908, Portland:
 Dictated 45 letters. 2 interviews. Worked in the evening until 9.30.

Wednesday, August 26, 1908, Portland:
 Read and approved special agents' reports. Dictated 27 letters. Approved 60 proof notices. 3 interviews.

Thursday, August 27, 1908, Portland:
 Read and approved special agents' reports. Dictated 30 letters. 4 interviews. Worked in the evening until 10.

Friday, August 28, 1908, Portland:
 Dictated 70 letters in reference to cases. 5 interviews.

Saturday, August 29, 1908, Portland, Oreg., & Vancouver, Wash.:
 Dictated 20 letters. 5 interviews. Left Portland at 1.20 p. m. Arrived Vancouver 2 p. m. Made arrangements for land office for U. S. land office. Interviewed Mrs. Wintler and 6 others in reference thereto. Arrived Portland 9.30 p. m. Portland Railway Co., fare Vancouver and return, \$.35.

Sunday, August 30, 1908, Portland. (Sunday.)

Monday, August 31, 1908, Portland:
 6 interviews. Dictated 35 letters. Approved 50 proof notices. Reading and approving special agents' reports accumulated during my absence.

Daily record of work and expenses, September, 1908.

[All signed "L. R. Glavis, special agent."]

Tuesday, September 1, 1908, Portland:
 Worked on accounts. Read and approved monthly accounts. Dictated 15 letters. Telegram to Hon. C. J. Bonaparte, Lenox, Mass., \$.50.

Wednesday, September 2, 1908, Portland:
 Dictated 40 letters. Four interviews. Worked in the evening until 10.30.

Thursday, September 3, 1908, Portland, Oregon:
 Purchased one bottle of stamping ink, \$.25. Dictated 25 letters. Looking over Agents' monthly accounts. Read and approved Agents' reports. Two interviews.

Friday, September 4, 1908, Portland, Oregon:
 Approved 75 proof notices. Dictated 11 letters. Five interviews. Worked in the evening until 10.

Saturday, September 5, 1908, Portland, Oregon:
 Read and approved Agents' reports. Preparing assignments for Agents. Dictated 16 letters. Approved 35 proof notices. Three interviews.

Sunday, September 6, 1908, Portland, Oregon:
 Worked half a day attending to routine work in the office.

Monday, September 7, 1908, Portland, Oregon:

Dictated 24 letters. Approved 40 proof notices. Approving Agents' accounts and reports.

Tuesday, September 8, 1908, Portland, Oregon:

In conference with U. S. Atty. in re pending land fraud cases. Dictated 6 letters. Six interviews. Preparing assignments for agents.

Wednesday, September 9, 1908, Portland, Oregon:

Approved 35 proof notices. Read and approved agents' reports. Dictated 15 letters. Worked in the evening until 9.30.

Thursday, September 10, 1908, Portland, Oregon:

Dictated 11 letters. Three interviews. Read and approved agents' reports. Left at 4 o'clock for Vancouver, Ws. Arrived at Vancouver, at 5 o'clock. Interviewed Misses Marie, Ruth, Emma, Kate and Mary Wintler in re their timber applications in LaGrande & Burns District. Returned to Portland at 10.30. Portland Railway Co. fare, Vancouver and return, \$.35. N. P. Railway Co. ticket to Seattle and return, \$11.20. N. P. Railway Co. sleeper to Seattle, \$2.00.

Friday, September 11, 1908, Seattle, Washington:

Fee to porter on sleeper, \$.25. Bus fare depot to hotel, \$.25. Conferred with assistant U. S. attorney in re Wilson Coal Co. case and in re case U. S. vs. Portland Coal & Coke Co. Endeavored to interview P. C. Richardson. Interviewed W. W. Barr in re his knowledge of Alaska coal cases.

Saturday, September 12, 1908, Seattle, Washington:

Interviewed P. C. Richardson and made arrangements with a view of securing confession of one Lauridsen in re Wilson Coal Co. case. Left Seattle at 10.20 p. m. N. P. Railway Co. sleeper, \$2.00.

Sunday, September 13, 1908, Portland, Oregon:

Arrived in Portland at 7 a. m. Fee to porter on sleeper, \$.25. Worked in office reading correspondence, approving agents' reports, and attending to routine work of the office.

Monday, September 14, 1908, Portland, Oregon:

Dictated 50 letters. 2 interviews. Worked all evening until 2 a. m. September 15 on special case. Ref. had to letter M. F. August 7, and letter "P" 142075 July 31.

Tuesday, September 15, 1908, Portland, Oregon:

Worked all day on special case. Ref. had to letter M. F. of August 7, and letter "P" 142075 of July 31.

Wednesday, September 16, 1908, Portland, Oregon:

Wrote 3 letters. Conferred with U. S. attorney and T. B. Neuhausen in reference to transfer of records. In conference with assistant U. S. attorney.

Thursday, September 17, 1908, Portland, Oregon:

Dictated 14 letters. 3 interviews. Read and approved agents' reports. Worked in the evening until 9.30. Helena will be my P. O. address on Sept. 28.

Friday, September 18, 1908, Portland, Oregon:

Conferred with U. S. attorney in reference to conducting land fraud cases and other matters. Dictated 35 letters. 4 interviews. Attending to routine work of the office. Helena will be my P. O. address on the 28th.

Saturday, September 19, 1908, Portland, Oregon:

Dictated 34 letters. 1 portrait attachment for kodak. Prepared list of cases to be clear listed. 4 interviews.

Sunday, September 20, 1908, Portland, Oregon:

Worked from 10 to 2 p. m. attending to routine work of the office.

Monday, September 21, 1908, Portland, Oregon:

Preparing lists of papers to be returned to GLO. Registering 23 packages to Washington, D. C., \$1.84. Paid for township plate, \$.95. Transfer of papers from office to post-office, \$.25. Dictated 17 letters. 5 interviews.

Tuesday, September 22, 1908, Portland, Oregon:

Dictated 24 letters. 4 interviews. In conference with U. S. atty. in re pending land fraud cases. Left Portland at 3.10. Arrived Vancouver 4 p. m. Made additional investigation concerning change of land office. Set S. Lauridsen's coal case for hearing December 2, 08. Portland Railway Co., fare Vancouver and return, \$.35. Returned to Portland 6.20 p. m.

Wednesday, September 23, 1908, Portland, Oregon:

Dictated 11 letters. 2 interviews. Preparing lists of papers and records to be transferred by T. B. Neuhausen. In conference with U. S. atty. in re pending trials.

Thursday, September 24, 1908, Portland, Oregon:

Dictated 6 letters. 3 interviews. In conference with U. S. atty. in re pending land fraud cases. Preparing and checking lists of papers and records to be transferred by T. B. Neuhausen.

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Friday, September 25, 1908, Portland, Oregon:

Approved 200 proof notices. Dictated 7 letters. 2 interviews. Conference with U. S. atty. in re his requests that additional agents be furnished this division. Left Portland 11.45 p. m. en route Helena, Montana. (Expenses of trip under Department of Justice.)

Saturday, September 26, 1908, en route to Helena:

En route to Helena, Montana, to testify in the case of U. S. vs. John Lucas. (Expenses charged to Department of Justice.)

Sunday, September 27, 1908, Helena, Montana, and en route:

Arrived at Helena, Mont., at 3.40 p. m. (Expenses charged to Department of Justice.)

Monday, September 28, 1908, Helena, Montana:

Attended and assisted in taking testimony in the case of U. S. vs. John Lucas. (Expenses charged to the Department of Justice.)

Tuesday, September 29, 1908, Helena, Montana:

Testified in the case of U. S. vs. John Lucas. In conference with Chief of Field Service H. H. Schwartz in re conditions in first field division and necessity additional agents. Left Helena at 4.20. (Expenses under Department of Justice.)

Wednesday, September 30, 1908, en route to Portland:

En route to Portland, Oregon. (Expenses under Department of Justice.)

Daily record of work and expenses, October, 1908.

[All signed "L. R. Glavis, special agent."]

Thursday, October 1, 1908, Portland, Oregon:

Arrived in Portland 7 a. m. Dictated 20 letters. In conference with U. S. atty. relative to land fraud trials. Attended to agent's monthly accounts. Secured a deed reconveying H. E. of Anna E. Roenicke. Worked in the evening on new system for keeping records in surveyor-general's office.

Friday, October 2, 1908, Portland, Oregon:

Dictated 19 letters. 6 interviews. In conference with Special Inspector Holcomb. Attending to routine work of the office. Telegram to Governor of Alaska, W. B. Hoggatt, Juneau, Alaska, 21 words, \$.21.

Saturday, October 3, 1908, Portland, Oregon:

Dictated 20 letters. 5 interviews. In U. S. atty's office all afternoon working on records in Pacific Lumber and Furniture Co. case.

Sunday, October 4, 1908, Portland, Oregon:

Worked in office all morning attending to routine work of the office.

Monday, October 5, 1908, Portland, Oregon:

Dictated 18 letters. 4 interviews. Prepared Alaska assignment for Agt. Stoner. Worked in the evening segregating papers in the different land fraud cases. Gave Agent Stoner instructions in re Alaska work.

Tuesday, October 6, 1908, Portland, Oregon:

Telegram to U. S. atty. New York City, in re Cooke case, 36 words, \$.72. Paid J. Barby for 2 Yale locks \$.50. Dictated 10 letters. 4 interviews. Street-car fare, Custom House to Post-Office, Portland, \$.20. Developing and printing of kodak films, \$.99.

Wednesday, October 7, 1908, Portland, Oregon:

Dictated 14 letters. In conference with U. S. atty. in re land fraud cases. 5 interviews. Street car fare custom-house to post-office, \$.10.

Thursday, October 8, 1908, Portland, Oregon:

Dictated 10 letters. 4 interviews. In conference with U. S. atty. and special assistant to Atty. General, Judge Becker, in re land fraud cases. Instructing new agent, Hartson, in re duties.

Friday, October 9, 1908, Portland, Oregon:

Dictated 4 letters. Paid for telegram to Leroy Moore, chief field division, Santa Fe, New Mexico, 18 words, \$.30. Street car fare, custom-house to post-office, \$.10. Working on special investigations.

Saturday, October 10, 1908, Portland, Oregon:

Paid telephone message from Portland to Agent Hartson at Albany, Ore., \$.75. Transfer of papers from post-office to custom-house, Portland, \$.50 Working on special investigations. Endorsed 90 proof notices. 2 special delivery stamps, \$.20.

Sunday, October 11, 1908, Portland, Oregon:

Working on special investigations until 10.30 p. m.

Monday, October 12, 1908, Portland, Oregon:

Dictated 9 letters. Transfer of typewriters custom-house to post-office, Portland, \$.50. Telegram from L. H. Arneson, receiver, U. S. land office, The Dallas, \$.50.

Street-car fare custom-house to post-office, \$0.20. Two conferences with Mr. R. A. Ballinger. Worked in the evening until 10.30 on special investigations. Telegram to U. S. atty. New York City, 17 words, \$0.40.

Tuesday, October 13, 1908, Portland, Oregon:

Dictated 14 letters. Preparing exhibits and assisting in case of U. S. *vs.* Pacific Furniture & Lumber Co. Worked in the evening until 10 p. m.

Wednesday, October 14, 1908, Portland, Oregon:

Dictated 10 letters. Preparing exhibits and assisting in case of U. S. *vs.* Pacific Furniture & Lumber Co. Worked in the evening until 10.30.

Thursday, October 15, 1908, Portland, Ore.:

Dictated 7 letters. 4 interviews. Assisting in case of U. S. *vs.* Pacific Furniture & Lumber Co. Worked in the evening until 10.30.

Friday, October 16, 1908, Portland, Oregon:

Dictated 6 letters. 4 interviews. Assisting in case of U. S. *vs.* Pacific Furn. & Lumber Co. Worked in the evening until 10 p. m.

Saturday, October 17, 1908, Portland, Oregon:

Spent morning assisting in case of U. S. *vs.* Pac. Furn. and Lumber Co. Dictated 30 letters. 3 interviews.

Sunday, October 18, 1908, Portland, Oregon:

At office reading mail and attending to routine work.

Monday, October 19, 1908, Portland, Oregon:

Assisting in case of U. S. *vs.* Pac. Furn. & Lumber Co. Endorsed 50 proof notices. Worked in the evening until 10.30 preparing agents assignments. Street-car fare, custom-house to post-office, Portland, \$0.10.

Tuesday, October 20, 1908, Portland, Oregon:

Assisting in case of U. S. *vs.* Pac. Furn. & Lumber Co. Dictated 12 letters. 3 interviews. Worked in the evening until 10 p. m. reading agents reports and preparing assignments.

Wednesday, October 21, 1908, Portland, Oregon:

Dictated 15 letters. 5 interviews. Assisting in case of U. S. *vs.* Pac. Furn. & Lumber Co. Street-car fare custom-house to post-office, Portland, \$.10.

Thursday, October 22, 1908, Portland, Oregon:

Assisting in case of U. S. *vs.* Pac. Furn. & Lumber Co. 3 interviews. Read and approved agents' reports.

Friday, October 23, 1908, Portland, Oregon:

Dictated 8 letters. 3 interviews. Assisting in case of U. S. *vs.* Pac. Furn. & Lumber Co. Street-car fare, custom-house to post-office, Portland, \$0.10. Worked in the evening until 10.30.

Saturday, October 24, 1908, Portland, Oregon:

Assisting in case of U. S. *vs.* Pacific Furn. & Lumber Co. in the morning. 5 interviews. Dictated 20 letters.

Sunday, October 25, 1908, Portland, Oregon:

Dictated 5 letters. Reading papers and exhibits in case of U. S. *vs.* Pac. Furn. & Lumber Co. Attending to routine work of the office.

Monday, October 26, 1908, Portland, Oregon:

Dictated 18 letters. 3 interviews. Assisting in case of U. S. *vs.* Pacific Furn. & Lumber Co. Worked in the evening until 9.30.

Tuesday, October 27, 1908, Portland, Oregon:

2 conferences with Senator Bourne, in re Siletz and other matters. Dictated 14 letters. 4 interviews. Prepared agents' assignments. Worked in the evening until 9.30.

Wednesday, October 28, 1908, Portland, Oregon:

Dictated 25 letters. 4 interviews. In conference with U. S. atty. and preparing evidence in pending land fraud cases. Street-car fare, custom-house to post-office, Portland, \$0.10. Worked in the evening until 10 p. m.

Thursday, October 29, 1908, Portland, Oregon:

Dictated 10 letters. 5 interviews. Attending to routine work of the office.

Friday, October 30, 1908, Portland, Oregon:

Dictated 6 letters. 4 interviews. Developing and printing kodak pictures, \$0.95. Working on evidence in pending land-fraud cases. Worked in the evening until 10 p. m.

Saturday, October 31, 1908, Portland, Oregon:

Dictated 20 letters. Made nine unfavorable reports to G. I. O. recommending suits to cancel patents. 6 interviews. Attending to routine work of the office.

Daily record of work and expenses, November, 1908.

[All signed "L. R. Glavis, special agent."]

Sunday, November 1, 1908, Portland, Oregon:
 Attending to routine work of the office.

Monday, November 2, 1908, Portland, Oregon:
 Dictated 25 letters. 4 interviews. Made report to G. L. O. in re surveyor-general office. In conference with U. S. atty. and assisting in preparing evidence in land fraud cases to be taken before grand jury. Worked in the evening until 10 p. m.

Tuesday, November 3, 1908, Portland, Oregon:
 Dictated 18 letters. 4 interviews. Approving agents' monthly accounts.

Wednesday, November 4, 1908, Portland, Oregon:
 Dictated 10 letters. 5 interviews. In conference with U. S. attorney.

Thursday, November 5, 1908, Portland, Oregon:
 Dictated 14 letters. In conference with U. S. attorney. Endorsed 200 proof notices. Worked in the evening until 10 p. m.

Friday, November 6, 1908, Portland, Oregon:
 Made two formal reports to GLO in re trespasses in Alaska. Dictated 10 letters. 4 interviews. Instructing agents in re conspiracy cases.

Saturday, November 7, 1908, Portland, Oregon:
 Dictated 20 letters. 3 interviews. In conference with U. S. attorney.

Sunday, November 8, 1908, Portland, Oregon:
 In U. S. atty's office preparing evidence in pending land fraud cases. Reading mail and attending to routine work of the office.

Monday, November 9, 1908, Portland, Oregon:
 Dictated 24 letters. 5 interviews. Reading and approving agents' reports.

Tuesday, November 10, 1908, Portland, Oregon:
 Dictated 10 letters. 4 interviews. Attending to routine work of the office.

Wednesday, November 11, 1908, Portland, Oregon:
 Dictated 14 letters. 5 interviews. In conference with U. S. atty. in re pending land fraud cases. Paid for developing kodak films, \$0.30.

Thursday, November 12, 1908, Portland, Oregon:
 Dictated 6 letters. 3 interviews. In conference with H. H. Schwartz, chief of field service.

Friday, November 13, 1908, Portland, Oregon:
 Dictated 10 letters. 4 interviews. In conference with H. H. Schwartz, chief of field service.

Saturday, November 14, 1908, Portland, Oregon:
 Dictated 14 letters. 4 interviews. In conference with H. H. Schwartz, chief of field service.

Sunday, November 15, 1908, Portland, Oregon:
 Attending to routine work of the office. In conference with H. H. Schwartz, chief of field service.

Monday, November 16, 1908, Portland, Oregon:
 Dictated 25 letters. 3 interviews. Endorsed 35 proof notices. In conference with H. H. Schwartz, chief of field service.

Tuesday, November 17, 1908, Portland, Oregon:
 Dictated 20 letters. Reading and approving agents' reports. Preparing agents' assignments. 4 interviews. In conference with U. S. atty.

Wednesday, November 18, 1908, Portland, Oregon:
 No official duty performed. Paid for telegram from Edward Doyle, Spokane, to Portland, 22 words, \$.22.

Thursday, November 19, 1908, Portland, Oregon:
 No official duty performed.

Friday, November 20, 1908, Portland, Oregon:
 No official duty performed. Paid for telegram to O. W. Lange, Chief Field Division, San Francisco, 20 words, \$.20.

Saturday, November 21, 1908, Portland, Oregon:
 Dictated 40 letters. Endorsed 200 proof notices. 4 interviews. In consultation with U. S. atty.

Sunday, November 22, 1908, Portland, Oregon:
 Reading mail and agents' reports. Dictated 18 letters.

Monday, November 23, 1908, Portland, Oregon:
 Dictated 10 letters. 5 interviews. In conference with U. S. atty. Paid telegram to S. J. Colter, Duluth, Minn., 35 words, \$.60. Paid telegram to O. W. Lange, San Francisco, Calif., 28 words, \$.28. N. P. Railway Co. fare Portland to Seattle and return, \$11.20. N. P. Railway Co. sleeper, Portland to Seattle, \$2.00. Left Portland 11.45 p. m.

Tuesday, November 24, 1908, Seattle, Washington:

Arrived Seattle 8 a. m. Fee to porter on sleeper, \$.25. Bus fare depot to hotel, \$.25. Secured certified check for \$854 in re settlement of timber trespass in Alaska. In conference with Judge Ballinger relative to the Alaska coal cases. Endeavored to locate George M. Irwin in re soldiers' additional application for land near Juneau, Alaska. Left Seattle at 1.15; N. P. Railway Co. parlor car fare, \$1.00. Fee to porter on parlor car, \$.25. Arrived in Portland 8.35 p. m.

Wednesday, November 25, 1908, Portland, Oregon:

Dictated 11 letters. Paid telegram to Andrew Kennedy, Jacksonville, Ore., 16 words, \$.45. In conference with U. S. atty. and attending case of U. S. *vs.* J. H. Parker.

Thursday, November 26, 1908, Portland, Oregon:

Assisting agents in making reports. Attending to routine work of the office.

Friday, November 27, 1908, Portland, Oregon:

Dictated 24 letters. 5 interviews. Paid A. B. Combs, jr., county clerk, Baker County, for certified copies of A. Wunder mining claim for use in case of U. S. *vs.* J. H. Parker, 9 copies at 60 cents each, \$5.40. In conference with U. S. attorney in re Parker case.

Saturday, November 28, 1908, Portland, Oregon:

Dictated 18 letters. 6 interviews. Preparing assignment of cases in Alaska. Attending to routine work of the office.

Sunday, November 29, 1908, Portland, Oregon:

Reading and approving agents' reports. Arranging monthly accounts.

Monday, November 30, 1908, Portland, Oregon:

Dictated 22 letters. 5 interviews. Approving agents' accounts.

Daily record of work and expenses, December, 1908.

[All signed "L. R. Glavis, special agent."]

Tuesday, December 1, 1908, Portland, Oregon:

Paid telephone message from Portland to Spl. Agt. York, Klamath Falls, \$0.85. Dictated 10 letters. 3 interviews. In conference with U. S. atty. Made report on timber tres. of Northern Com. Co., with propositions of settlement amounting to \$1,563.50. Made report to H. H. Schwartz, Chief of Field Service, of cases pending in this division.

Wednesday, December 2, 1908, Portland, Oregon:

Dictated 18 letters. 4 interviews. In conference with U. S. atty. in re pending cases.

Thursday, December 3, 1908, Portland, Oregon:

Made report on Alaska American Fisheries timber tres. in Alaska, with proposition of settlement for \$495.50. Made report to G. L. O. in re trial of U. S. *vs.* J. H. Parker. Made report to G. L. O. in re La Grande land office. Dictated 8 letters. Worked in the evening until 10 p. m.

Friday, December 4, 1908, Portland, Oregon:

Dictated 20 letters. 4 interviews. In conference with U. S. atty. in re pending cases. Preparing assignment for agents. Reading and approving agents' reports.

Saturday, December 5, 1908, Portland, Oregon:

Dictated 15 letters. 5 interviews. Reading and approving agents' reports.

Sunday, December 6, 1908 (Sunday), Portland, Oregon:

Monday, December 7, 1908, Portland, Oregon:

No official duty performed.

Tuesday, December 8, 1908, Portland, Oregon:

No official duty performed.

Wednesday, December 9, 1908, Portland, Oregon:

Dictated 24 letters. 5 interviews. In conference with U. S. atty. in re pending cases. Made three reports to G. L. O. in re H. E. of Richard Depue, H. E. of Joseph Gillis, and H. E. of Wm. Tightmeier.

Thursday, December 10, 1908, Portland, Oregon:

Dictated 10 letters. 3 interviews. Preparing assignments of hearings for agents. Working on accounts.

Friday, December 11, 1908, Portland, Oregon:

Dictated 8 letters. 5 interviews. Attending to routine work of the office.

Saturday, December 12, 1908, Portland, Oregon:

Dictated 18 letters. 3 interviews. In conference with U. S. atty. in re pending cases. Reading and approving agents' reports.

Sunday, December 13, 1908, Portland, Oregon:

Reading mail and attending to routine work of the office.

Monday, December 14, 1908, Portland, Oregon:

Dictated 16 letters. Reading agents' reports. Arranging work for agents during absence. Issued T. R. No. 3906 to O. R. & N. Co. fare Portland to La Grande, (\$9.10). Issued T. R. No. 3907 O. R. & N. Ry. Co. fare La Grande, Ore., to Washington, D. C. (\$64.20).

Tuesday, December 15, 1908, Portland, Oregon:

Dictated 12 letters. 4 interviews. Arranging work preparatory to leaving for Washington, D. C. Transfer of baggage from hotel to depot, \$.50. Paid O. R. & N. Ry. Co. Pullman sleeper from Portland to La Grande, \$2.00. Left Portland 6 p. m.

Wednesday, December 16, 1908, La Grande, Oregon:

Arrived La Grande at 7 a. m. Fee to porter on sleeper, \$.25. Interviewed register & receiver and investigated shortages in receiver's accounts. Wired G. L. O. to suspend receiver. Left La Grande at 7.15 p. m. O. R. & N. Co. sleeper to Chicago, \$11.50.

Thursday, December 17, 1908, en route to Chicago:

Fee to porter on sleeper, \$.25.

Friday, December 18, 1908, en route to Chicago:

Fee to porter on sleeper, \$.25.

Saturday, December 19, 1908, Chicago, Illinois:

Arrived Chicago at 1 p. m. Fee to porter on sleeper, \$.25.

December 20, 1908 (Sunday), Chicago, Illinois:

Wired to Clerk Patten to transmit certain papers. Telegraph charges, \$.35.

Monday, December 21, 1908, Chicago, Illinois:

Left Chicago at 5.30 p. m. Penn. sleeper to Washington, \$4.50; Penn., extra fare to Washington, 2.50; Hack hire, hotel to depot, \$.50.

Tuesday, December 22, 1908, Washington, D. C.:

Arrived Washington at 5.15 p. m. Fee to porter on sleeper, \$.25. Hack hire, depot to 1916 Biltmore street, \$1.40. Transfer baggage, depot to house, \$.50. Storage baggage in Union Depot, \$.30.

Wednesday, December 23, 1908, Washington, D. C.:

In conference with commissioner and Chief of Field Service in re matters pending in division No. 1.

Thursday, December 24, 1908, Washington, D. C.:

Conferred with various divisions in re accounts and pending cases.

Friday, December 25, 1908, Washington, D. C.:

Legal holiday.

Saturday, December 26, 1908, Washington, D. C.:

Examining record of B. D. L. E's in which Furnish is interested.

Sunday, December 27, 1908, Washington, D. C.:

No work performed.

Monday, December 28, 1908, Washington, D. C.:

In conference with commissioner and Mr. Schwartz in re Alaska situation and other matters. Called on Mr. Richards of Department of Justice.

Tuesday, December 29, 1908, Washington, D. C.:

Explained my system of keeping records in surveyor-general's offices. Also examined papers in re Idaho investigation.

Wednesday, Dec. 30, 1908, Washington, D. C.:

Received final instructions in re Idaho investigations and conferred with commissioner in re Oregon matters. Transfer baggage, house Washington, D. C., to Imperial Hotel, New York, \$1.00. Penn. fare Washington, D. C., to New York City, \$5.65. Penn. fare sleeper to New York, \$2.00.

Thursday, Dec. 31, 1908, Washington, D. C.-New York City:

Left Washington at 12.30 a. m. Arrived New York 8 a. m. Fee to porter on sleeper, \$.25. Hack hire 23rd st. ferry to hotel, \$.50. Wired Clerk Patten in re accounts, telegraph message, \$.40. Located several of the persons to be interviewed and investigated their financial standing.

Daily record of work and expenses, January, 1909.

[All signed "L. R. Glavis, special agent."]

Friday, January 1, 1909, New York City:

Legal holiday.

Saturday, January 2, 1909, New York City:

Four street-car fares, \$.20.

Sunday, January 3, 1909, New York City:

Sunday.

Monday, January 4, 1909, New York City:

In conference with U. S. Attorney's office. 2 street-car fares, \$.10. Issued T. R. No. 3909 for Pullman sleeper to Chicago (5.00). T. R. No. 3908 Ry. fare New York City to St. Paul (28.00). Extra fare on 20th Century Limited, \$10.00.

Tuesday, January 5, 1909, New York City:

Questioned defendant with U. S. attorney. Transfer of baggage, hotel to depot, \$0.50. 5 street car fares, \$.25. Left New York at 3.30 p. m.

Wednesday, January 6, 1909, Chicago, Illinois:

Arrived Chicago 9 a. m. Fee to porter \$.25. Endeavored to locate present whereabouts of former private secy. to ex-Senator Mitchell. C. M. & St. P. Ry. sleeper to St. Paul, Minn., \$2.00. Left Chicago at 7 p. m. Checked hand baggage at depot, \$.15.

Thursday, January 7, 1909, Minneapolis, St. Paul, Minnesota:

Fee to porter \$.25. Arrived St. Paul at 9 a. m. Prepared checks for agents Dec. accounts, which I examined and returned to Portland. Left for Minneapolis at noon. Returned to St. Paul in evening. Chicago Great Western fare St. Paul to Minneapolis, \$.21. Street-car fare Minneapolis to St. Paul, \$.10. Secured information in the evening in re cases.

Friday, January 8th, 1909, St. Paul, Minnesota:

Examined records in secy. of state's office; called on asst. U. S. atty. Issued T. R. 3910 to Denver, Colo., for 2 fares (\$39.20). N. W. Line, sleeper to Omaha, \$2.00. Left St. Paul at 8.35 p. m.

Saturday, January 9, 1909, Omaha & en route to Denver:

Arrived Omaha at 8 a. m. Checking of hand baggage at depot Omaha, \$.10. Left Omaha at 1.20 p. m. Rock Island sleeper, Omaha to Denver, \$3.50.

Sunday, January 10, 1909, Denver, Colorado:

Arrived Denver 9.30 a. m. Fee to porter on sleeper, \$.25. Hack hire, depot to hotel, \$.25. Transfer baggage, depot to hotel, Denver, \$.50. Located persons to be interviewed Monday. Baggage charges at station, \$.60.

Monday, January 11, 1909, Denver, Colorado:

Interviewed S. C. Hinesdale, U. S. Commissioner, in re fees in hearings. Called on Mr. McNery. Issued T. R. 3911 U. P. Ry. to Salt Lake for 2 tickets (\$35.50). U. P. Ry. sleeper to Salt Lake City, \$4.00. Transfer baggage, hotel to depot, \$.50. Left Denver at 7.50 p. m.

Tuesday, January 12, 1909, Salt Lake City, Utah:

Fee to porter on sleeper, \$.25. Arrived Salt Lake City 6.15 p. m. Transfer baggage, depot to hotel, \$.25. Bus fare, depot to hotel, \$.25.

Wednesday, Jan. 13, 1909, Salt Lake City:

Secured additional data from Chief Field Div. Hair in re special investigation. Conferred with asst. U. S. atty. in re Hair and agents. Wrote 4 letters. Issued T. R. No. 3912 to Blackfoot, Idaho, for two fares (\$11.80). Transfer baggage, hotel to depot, \$.50. O. S. L. sleeper to Blackfoot, Idaho, \$2.00. Left Salt Lake City at 10.45 p. m. Hack hire, hotel to depot, \$.50.

Thursday, January 14, 1909, Blackfoot, Idaho:

Arrived Blackfoot at 6.45 p. m. Fee to porter on sleeper, \$.25. Securing information in re special case.

Friday, January 15, 1909, Rexburg, Blackfoot, Idaho:

Left Blackfoot at 8.25 a. m.; arrived Rexburg 10.40 a. m. O. S. L. fare, Blackfoot to Rexburg, \$1.90. O. S. L. parlor-car fare, Blackfoot to Idaho Falls, \$.25. Bus fare, depot to hotel, Rexburg, \$.25. Left Rexburg at 1.30 p. m. and rode nine miles to Nicholas F. R. Newby's ranch, arriving there at 4.30 p. m. Hire of saddle horse, \$1.00.

Saturday, January 16, 1909, Newby's ranch & country:

Took aff'd. of Marrión Neeter, Ezra Liljinkuist, John Clements, Alex S. Leatham, Charles Seatham, and John R. Barber. Returned to Newby's ranch at 8 p. m. Hire saddle horse, \$1.00. Service of guide, \$4.00.

Sunday, Jan. 17, 1909, Newby's ranch, James Byrne:

Left Newby's ranch at 7.30 a. m. Took affidavits of Albert Suthey, Joseph A. Johnson, E. A. Barber, Nicholas F. R. Newby, jr., Albert England, James Byrne, M. L. Byrne, and John Taylor. Reached James Byrne ranch at 6 p. m. Hire saddle horse, \$1.00. Services of guide, \$4.00.

Monday, January 18, 1909, Byrne's ranch, Rexburg, Idaho:

Left Byrne's ranch 8 a. m. Took affidavit E. A. Senroot, John A. Pearson, John K. Whitney, P. Tempest, and Hugh J. Adams. Made appointment with A. E. Peterson. Conferred with Martin Garn and Agent Campbell. Worked until 10 p. m. Hire saddle horse, \$1.00. Services of guide, \$4.00.

Tuesday, January 19, 1909, Rexburg, Idaho:

Took 2 affidavits of Nicholas F. R. Newby, John S. Ballif, James Gillespie, J. C. Johnson, Daniel Bagley, Olaf S. Anderson, and Olaf E. Peterson. Conferred with C. H. Woodmansee. Worked until 10 p. m.

Wednesday, January 20, 1909, Rexburg, Idaho:
Secured affidavits of James Siddoway, J. S. Eames, Jesse M. Baker, and Page P. Siglin; was present all morning while C. H. Woodmansee dictated statement and questioned him.

Thursday, Jan'y. 21, 1909, Rexburg, Idaho:
Services as guide, \$4.00. Secured affidavits of N. P. Hansen, John X. Anderson, James M. Cook. Paid for tracing and blueprint, \$4.00. Left Rexburg 8 p. m. O. S. L. fare, Rexburg to Blackfoot, \$1.90. Sleeper on tourist car, Rexburg to Blackfoot, \$1.00.

Friday, Jan'y. 22, 1909, Blackfoot, Idaho:
Arrived Blackfoot 1 a. m. Fee to porter on sleeper, \$.25. Questioned Agent Campbell in re his investigations in Rexburg bench. Secured data from Land Office records in re case. Secured information from register in re Agt. Brighton's investigation of Woodmansee & Webster entries. Issued T. R. 3913, Blackfoot, Idaho, to Salt Lake. O. S. L., sleeper, Blackfoot to Salt Lake, \$2.00.

Saturday, Jan'y. 23, 1909, Salt Lake City:
Left Blackfoot 1 a. m. Arrived in Salt Lake 9 a. m. Fee to porter on sleeper, \$.25. Checked baggage at parcel room, \$.20. Sent telegram to Miss Patten, custom-house, Portland, \$.20. Sent telegram to postmaster, Hailey, Idaho, \$.20. Issued T. R. 3914, Salt Lake to Portland. O. R. N. Ry. sleeper, Salt Lake to Portland, \$.60.

Sunday, Jan'y. 24, 1909:
En route to Portland, Oregon. Fee to porter on sleeper, \$.25.
Monday, Jan'y. 25, 1909, Portland, Oregon:
Arrived in Portland 10.30. Fee to porter on sleeper \$.25. Transfer of baggage depot to hotel, Portland, \$1.00. Dictated 20 letters. Reading mail accumulated during my absence.

Tuesday, Jan'y. 26, 1909, Portland, Oregon:
Conferred with U. S. atty. Dictated 26 letters. Reading and approving agents reports.

Wednesday, January 27, 1909, Portland, Oregon:
Conferred with U. S. atty. relative to cases to be presented to grand jury. Dictated 48 letters. 5 interviews. Worked in the evening until 9 p. m.

Thursday, Jan'y. 28, 1909, Portland, Oregon:
Dictated 52 letters. 5 interviews. In conference with U. S. atty. Reading and approving agents reports.

Friday, Jan'y. 29, 1909, Portland, Oregon:
Worked all day on hearing accounts. Dictated 150 letters transmitting checks for witnesses fees.

Saturday, January 30, 1909, Portland, Oregon:
Dictated 27 letters. Made 4-478 report Alaska Packers Assc., with proposition of settlement for \$697.40. Made 4-478 report in re Pac. Coast Norway Co., with proposition of settlement for \$1,767.36. 4 interviews.

Sunday, Jan'y. 31, 1909, Portland, Oregon:
Sunday. Attending to routine work of the office. Reading and approving agents accounts.

Daily record of work and expenses, February, 1909.

[All signed "L. R. Glavis, special agent."]

Monday, February 1, 1909, Portland, Oregon:
Dictated 28 letters. 4 interviews. In conference with U. S. atty. relative to cases pending before the grand jury. Telegraph message to county clerk, Pendleton, Ore., 19 words, \$.20. 3 registered letters to commissioner, Washington, D. C., \$.24.

Tuesday, February 2, 1909, Portland, Ore.:
Dictated 40 letters. 5 interviews. Telegraph message from Portland to Spl. Agt. Pollard, Albany, 24 words \$.24.

Wednesday, February 3, 1909, Portland, Ore.:
Dictated 12 letters. 4 interviews. Approving agents monthly accounts. Issued T. R. No. 3915 O. R. & N. Co., Portland to Marysville, Idaho (\$24.85). O. R. & N. sleeper, Portland to Pocatello, Idaho, \$.50. Left Portland at 6 p. m.

Thursday, February 4, 1909, en route to Idaho:
Fee to porter on sleeper, \$.25. O. S. L. tourist sleeper, Pocatello to St. Anthony. Ida., \$1.00.

Friday, Feb'y. 5, 1909, Ashton & St. Anthony:
Arrived Ashton 11.30 a. m. Fee to porter on sleeper, \$.25. Conferred with Agt. Kennedy in re investigation. Took affidavits of Wm. Wancke and Nels Byrom. Left Ashton at 6.30 p. m. Arrived St. Anthony at 7.15 p. m. O. S. L. fare, Ashton to St. Anthony, \$.60.

Saturday, February 6, 1909, St. Anthony & Rexburg:

Interviewed Thos. Elliott, O. P. Soule, Anthony Willsap, and C. C. Moore. Took affidavits of B. H. Miller and C. H. Haws. Left St. Anthony at 7.40 p. m., arrived Rexburg at 8.15 p. m. O. S. L. fare, \$.45. Bus fare, depot to hotel, Rexburg, \$.25.

Sunday, February 7, 1909, Rexburg, en route to Hailey:

Secured affidavits of A. M. Truman, Leonard G. Rowland, D. A. Sanders, and Stephen Hulse. Interviewed C. H. Woodmansee. To Stephen Hulse for making trip from Archer to Rexburg and return, \$.50. Team hire, \$.35. Bus fare hotel to depot, Rexburg, \$.25. Tourist sleeper, Rexburg to Pocatello, \$1.00.

Monday, February 8, 1909, Hailey-Pocatello, Idaho:

Arrived Pocatello at 1.30 a. m. Fee to porter on sleeper, \$.25. Left Pocatello 5.30 a. m., arrived Hailey at 12.30 p. m. Pullman sleeper (berth), Pocatello to Shoshone, \$2.00. O. S. L. fare, Bellevue to Hailey, Idaho, \$.20. Interviewed Reg. and Robt. E. Tuston in re Carr's conduct in re D. L. E. Stella Brayner.

Tuesday, February 9, 1909, Hailey, Bellevue, and Shoshone:

Drove to Bellevue at 8 p. m.; investigated whereabouts of Stella Brayner and witnesses. Returned to Hailey 10 a. m. Team hire, \$2.50. Left Hailey at 5.15, arrived Shoshone at 7.45 p. m.

Wednesday, February 10, 1909, en route to Portland:

Left Shoshone 2.30 a. m. O. S. L. sleeper, Shoshone, Idaho, to Portland, Ore., \$4.50. Arrived Portland at 11.30 p. m. Fee to porter on sleeper, \$.25.

Thursday, Febr. 11, 1909, Portland, Oregon:

Dictated 45 letters. 5 interviews. Western Union Telegraph Co., 22 words to Dunning, Salt Lake, \$.22. Western Union Telegraph Co., 17 words to H. V. Campbell, St. Anthony, Ida., \$.20. Made 4-478 report in re Northwestern Fisheries Co. with proposition of settlement for \$234.60.

Friday, February 12, 1909, Portland, Oregon:

Dictated 30 letters. 6 interviews. Reading and approving agents' reports, conferring with Agents Stoner, Doyle, and McGuire in re Alaska situation.

Saturday, February 13, 1909, Portland, Oregon:

Dictated 32 letters. 5 interviews. Made 4-478 report in re timber trees of Thlinket Packing Co. with proposition of settlement for \$511.98. Reading reports and attending to routine work of the office.

February 14, 1909 (Sunday), Portland, Oregon:

Working and arranging Idaho case to be reported.

Monday, February 15, 1909, Portland, Oregon:

Dictated 28 letters. In conference with U. S. atty. in re pending cases. Attending to general work of the office.

Tuesday, February 16, 1909, Portland, Oregon:

Dictated 36 letters. 5 interviews. Arranging hearing files. Issued T. R. 3916, Portland to Seattle and return, \$11.20. Sleeper, Portland to Seattle, \$2.00. Worked in the evening until train time. Left Portland at 11.45 p. m.

Wednesday, Febr. 17, 1909, Seattle, Washington:

Arrived Seattle 11 a. m. Fee to porter on sleeper, \$.25. Conferred with Judge R. A. Ballinger in reference to condition of work and Alaska matters. Made partial arrangements relative to hearings in the In re Wilson Coal Co. cases in the Vancouver district. Left Seattle at 10.20. N. P. Railway Co. sleeper, Seattle to Portland, \$2.00.

Thursday, February 18, 1909, Portland, Oregon:

Arrived in Portland 8.30. Fee to porter on sleeper, \$.25. Dictated 25 letters. Working on cases to be set for hearing.

Friday, February 19, 1909, Portland, Oregon:

Dictated 32 letters. 5 interviews. In conference with U. S. atty. in re cases before grand jury. Telegram to R & R Juneau, Alaska, 22 words, \$.22. Worked in the evening until 9.30.

Saturday, February 20, 1909, Portland, Oregon:

Dictated 15 letters. 4 interviews. Reading and approving Agents' reports.

February 21, 1909 (Sunday), Portland, Oregon:

Worked all day setting cases for hearing.

Monday, February 22, 1909, Portland, Oregon:

Dictated 20 letters. In conference with Special Agents Doyle, McGuire, and Stoner in reference to Alaska cases.

Tuesday, February 23, 1909, Portland, Oregon:

Dictated 36 letters. 6 interviews. In conference with U. S. atty. in re grand jury cases. Conferring with Agents Kennedy and Sunderlin in re Idaho cases.

Wednesday, February 24, 1909, Portland, Oregon:

Dictated 24 letters. Working on Idaho cases. Attending to routine work of the office.

Thursday, February 25, 1909, Portland, Oregon:

Dictated 16 letters. 4 interviews. Working on Idaho case. Reading and approving agents' reports.

Friday, February 26, 1909, Portland, Oregon:

Dictated 30 letters. Preparing agents' assignment of cases to be investigated in Alaska. Worked in the evening until 10 p. m.

Saturday, February 27, 1909, Portland, Oregon:

Dictated 28 letters. Telegram to R. & R., Fairbanks, Alaska, 20 words, \$.20. Preparing agents' assignments. Made report to G. L. O. in re Special Agent Carr, in Idaho. Telegram to R. & R., La Grande, 23 words, \$.23.

Sunday, February 28, 1909, Portland, Oregon:

Reading mail and attending to general work in the office.

Daily record of work and expenses, March, 1909.

[All signed "L. R. Glavis, special agent."]

Monday, March 1, 1909, Portland, Oregon:

Dictated 40 letters. 4 interviews. Worked in the evening until 10 p. m. setting hearings.

Tuesday, March 2, 1909, Portland, Oregon:

Dictated 28 letters. In conference with U. S. atty. relative to cases pending before grand jury. Attending to routine work of the office.

Wednesday, March 3, 1909, Portland, Oregon:

Arranging and preparing agents' field assignments. Dictated 19 letters. 3 interviews. Worked in the evening setting hearings.

Thursday, March 4, 1909, Portland, Oregon:

Dictated 25 letters. 5 interviews. Preparing field assignments for agents. Endorsed 75 proof notices.

Friday, March 5, 1909, Portland, Oregon:

Writing and signing checks in payment of vouchers for hearings. Dictated 14 letters. Attending to routine work of office. Worked in the evening until 10 p. m.

Saturday, March 6, 1909, Portland, Oregon:

Dictated 40 letters in re hearings. 6 interviews. Attending to routine work of the office.

March 7, 1909 (Sunday), Portland, Oregon:

Reading mail and attending to office work.

Monday, March 8, 1909, Portland, Oregon:

In conference with U. S. atty. relative to grand jury cases. Dictated 30 letters. Worked in the evening until 9.30 preparing cases for hearings.

Tuesday, March 9, 1909, Portland, Oregon:

Dictated 22 letters. 4 interviews.

Wednesday, March 10, 1909, Portland, Oregon:

Dictated 42 letters. Reading agents' reports. Made arrangements to secure temporary stenographer to assist in preparing Alaska reports.

Thursday, March 11, 1909, Portland, Oregon:

Dictated 20 letters. 6 interviews. In conference with U. S. attorney in re pending cases. Preparing agents' assignments.

Friday, March 12, 1909, Portland, Oregon:

Dictated 18 letters. Arranging and setting cases for hearing. Approved 75 proof notices.

Saturday, March 13, 1909, Portland, Oregon:

Dictated 17 letters. 5 interviews. Received official telegram to arrange transfer of division and begin to arrange office affairs accordingly.

Sunday, March 14, 1909, Portland, Oregon:

Worked all day reading mail and attending to routine work of office.

Monday, March 15, 1909, Portland, Oregon:

Dictated 14 letters. Preparing lists of pending and closed cases to be turned over to new Chief of Division. Worked in the evening until 10 p. m.

Tuesday, March 16, 1909, Portland, Oregon:

Dictated 35 letters. Telegram to H. P. Kennedy, Seattle, Wash., 19 words, \$.20. Telegram to E. W. Dixon, Spokane, Wash., 22 words, .22. Preparing lists of cases to be turned over to new Chief of Division.

Wednesday, March 17, 1909, Portland, Oregon:

Dictated 14 letters. 4 interviews. Telegram to H. K. Love, Fairbanks, Alaska, 17 words, \$.20. Worked in the evening until 9 p. m.

Thursday, March 18, 1909, Portland, Oregon:

Dictated 19 letters. Telegram from Clerk to Chief 3rd Field Division, Spokane, Washington, to Portland, 20 words, \$0.25. Made 4-478 report in re W. P. Mills Co., with proposition of settlement for \$404.00. Worked in the evening on Alaska coal cases.

Friday, March 19, 1909, Portland, Oregon:

Dictated 15 letters. 4 interviews. Gave deposition in case of Galbraith vs. Canedy, timber trespass in Whatcom County, Washington.

Saturday, March 20, 1909, Portland, Oregon:

Dictated 19 letters. 5 interviews. In conference with U. S. atty. Preparing receipts for transfer to new Chief of Field Division. Worked in the evening until 10 p. m.

Sunday, March 21, 1909, Portland, Oregon:

Made unfavorable report in Chezum group Alaska coal cases, including 11 coal declaratory statements. Made unfavorable report in Christopher group Alaska coal cases, including 35 coal declaratory statements. Dictated 16 letters. Northern Pacific Railway Co. sleeper, Portland to Seattle, \$2.00. Left Portland at 11 p. m.

Monday, March 22, 1909, Portland, Oregon:

Arrived Seattle at 8 a. m. Fee to porter on sleeper, \$.25. Made inquiry relative to offices in Federal building. Looked for offices in other buildings. Secured three separate bids on office furniture. Wired G. L. O. in re office furniture. Northern Pacific Railway Co. sleeper, Seattle to Portland, \$2.00. Issued T. R. 3918 N. P. R. R. Co. fare, Seattle to Portland and return (\$11.20). Left Seattle at 10.20 p. m.

Tuesday, March 23, 1909, Portland, Oregon:

Arrived Portland 8 a. m. Fee to porter on sleeper, \$.25. Made unfavorable report on Cunningham group, Alaska coal cases, including 34 coal declaratory statements. Made unfavorable report on Doughten group Alaska coal cases, including 39 coal declaratory statements. Dictated 16 letters. Worked in the evening until 9.30.

Wednesday, March 24, 1909, Portland, Oregon:

Made unfavorable report on Willoughy group Alaska coal cases, including 28 coal declaratory statements. Made unfavorable report on Young group Alaska coal cases, including 17 coal declaratory statements. Made unfavorable report on Stacey group Alaska coal cases, including 59 coal declaratory statements. Made unfavorable report on Simmonds group Alaska coal cases, including 32 coal declaratory statements. Made unfavorable report on Rathbone group Alaska coal cases, including 5 coal declaratory statements. Made unfavorable report on Feed group Alaska coal cases, including 8 coal declaratory statements. Dictated 6 letters. Arranging papers in Binger Hermann case.

Thursday, March 25, 1909, Portland, Oregon:

Made unfavorable report on Dickerson group Alaska coal cases, including 5 coal declaratory statements. Made unfavorable report on Runnells group Alaska coal cases, including 3 coal declaratory statements. Made unfavorable report on White group Alaska coal cases, including 3 coal declaratory statements. Made unfavorable report on Wardell group Alaska coal cases, including 4 coal declaratory statements. Made unfavorable report on Hardrader group Alaska coal cases, including 4 coal declaratory statements. Made unfavorable report on Letcher group Alaska coal cases, including 4 coal declaratory statements. Made unfavorable report on Watson group Alaska coal cases, including 64 coal declaratory statements. Made unfavorable report on Foster group Alaska coal cases, including 30 coal declaratory statements. Made unfavorable report on Green group Alaska coal cases, including 37 coal declaratory statements. Made unfavorable report on Hartline group Alaska coal cases, including 16 coal declaratory statements. At U. S. atty's office working on Binger Hermann case.

Friday, March 26, 1909, Portland, Oregon:

Made unfavorable report on Dunn group Alaska coal cases, including 40 coal declaratory statements. Made 42 separate reports (unfavorable) on Alaska coal declaratory statements. Dictated 7 letters. In conference with U. S. atty. Arranging papers and working on Binger Hermann case. Worked in the evening until 9.30.

Saturday, March 27, 1909, Portland, Oregon:

Paid for box to pack files in, \$.35. Paid telegram to David Adams, Seattle, 24 words, 24 cts., messenger to deliver same, 50 cts., .74. Dictated 5 letters. Explaining records and cases to Chief A. Christensen. Working on Binger Hermann case.

Sunday, March 28, 1909, Portland, Oregon:

Working on Binger Herman case.

Monday, March 29, 1909, Portland, Oregon:

Working on Binger Herman case.

Tuesday, March 30, 1909, Portland, Oregon:

Made report to U. S. atty. on Binger Herman case. Wrote letter to Mr. Francis J. Heney relative thereto. Left Portland at 11.55. Transfer of baggage, hotel to depot, \$.75. N. P. Railway sleeper, Portland to Seattle, 2.00.

Wednesday, March 31, 1909, Seattle, Washington:

Arrived in Seattle 7 a. m. Fee to porter on sleeper, \$.25. Transfer of baggage, depot to hotel, .75. Making arrangements to secure offices.

Daily record of work and expenses, April, 1909.

[All signed "L. R. Glavis, special agent."]

Thursday, April 1, 1909, Seattle, Washington:

Making arrangements to secure offices in Federal Building. Looking for furniture for office.

Friday, April 2, 1909, Seattle, Washington:

Making arrangements to secure offices in Federal Building. Looking for furniture for offices.

Saturday, April 3, 1909, Seattle, Washington:

Making arrangements to secure offices in federal building. Looking for furniture for office.

Sunday, April 4, 1909, Seattle, Washington:

Sunday.

Monday, April 5, 1909, Seattle, Washington:

Making arrangements to secure offices and purchasing furniture for office.

Tuesday, April 6, 1909, Seattle, Washington:

Making arrangements to secure offices and purchasing furniture for office.

Wednesday, April 7, 1909, Seattle, Washington:

Working on records turned over by Dixon.

Thursday, April 8, 1909, Seattle, Washington:

Working on records turned over by Dixon.

Friday, April 9, 1909, Seattle, Washington:

Arranging records turned over by Dixon.

Saturday, April 10, 1909, Seattle, Washington:

Worked all day arranging records turned over by Dixon.

Sunday, April 11, 1909, Seattle, Washington:

Worked all day fixing records turned over by Dixon. Telegraphed commissioner in re clerical assistance.

Monday, April 12, 1909, Seattle, Washington:

3 interviews. Attending to routine work of the office. Issued T. R. \$919 Seattle to Portland and return (\$11.20). Left Seattle 10.20 p. m. N. P. Railway sleeper, Seattle to Portland, \$2.00.

Tuesday, April 13, 1909, Portland, Oregon:

Arrived in Portland 7 a. m. Fee to porter on sleeper, \$.25. Consulted U. S. Atty. in re old land fraud cases. Made arrangement with attorneys for claimants in Vancouver district to submit 4 hearings upon statement of facts.

Wednesday, April 14, 1909, Portland, Oregon:

Left Portland 8.20; arrived Vancouver 9.30. Conferred with local officers relative to cases waiting hearing. Returned to Portland at noon. Portland Electric Railway Co. fare, Vancouver and return, \$.35. Conferred with attorneys for entrymen in Tp. 7 N., Rg. 3 E., and decided upon stipulation of facts. Left Portland at 11.45 p. m. N. P. Railway Co. sleeper, Portland to Seattle, \$2.00.

Thursday, April 15, 1909, Seattle, Washington:

Arrived in Seattle at 7 a. m. Fee to porter on sleeper, \$.25. Attending to routine work of office.

Friday, April 16, 1909, Seattle, Washington:

Attending to routine work of the office.

Saturday, April 17, 1909, Seattle, Washington:

Made two favorable reports relative to H. E. of Charles Reinheimer and M. S. Langlon. Attending to routine work of the office.

Sunday, April 18, 1909, Seattle, Washington:

Sunday.

Monday, April 19, 1909, Seattle, Washington:

Attending to routine work of the office.

Tuesday, April 20, 1909, Seattle, Washington:

Attending to routine work of the office. Working on Alaska coal cases in the evening until 11 p. m.

Wednesday, April 21, 1909, Seattle, Washington:
Preparing Alaska coal cases for investigation. Worked in the evening until 11 p. m., assisted by Special Agent Stoner.

Thursday, April 22, 1909, Seattle, Washington:
Working on Alaska coal cases. Worked in the evening until 11.30.

Friday, April 23, 1909, Seattle, Washington:
Working on Alaska coal cases. Left Seattle at 10.20 p. m. Transfer of baggage hotel to depot, \$.50.

Saturday, April 24, 1909, Portland, Oregon:
Arrived in Portland at 7 a. m. Fee to porter on sleeper, \$.25. Transfer of baggage depot to hotel, \$.50. Conferred with U. S. atty. and Chief of Field Division Christensen.

Sunday, April 25, 1909, Portland, Oregon:
Sunday.

Monday, April 26, 1909, Portland, Oregon:
Took affidavit of Mr. Rogers, coal claimant in Alaska cases. Interviewed Louis G. Clarke, president of Ancora Oil and Coal Co. Interviewed attys. Coovert & Stapleton, attys. for Alaska coal claimants. Endeavored to locate and interview Winsley Bros., Alaska coal claimants.

Tuesday, April 27, 1909, Portland, Oregon:
Conferred with Chief of Field Division Christensen. Signed stipulation in re 5 homestead entries waiting hearings in Vancouver land district, submitting same on statement of facts. Transfer of baggage hotel to depot, \$.50. Left Portland at 7.45 p. m. Issued T. R. No. 3920, to San Francisco (\$20.00).

Wed., April 28, 1909, on train:
En route to San Francisco. Fee to porter, \$.25.

Thurs., April 29th, 1909, San Francisco:
Arrived San Francisco at 9 a. m. Fee to porter, \$.25. Transfer baggage, depot to hotel, \$.50. Bus fare, depot to hotel, \$.50. Secured proposition of settlement for \$1,689.50 for timber purchased by Northern Commercial Co. Endeavored to confer with Mr. Henry. 6 street-car fares, \$.30. 3 telephone calls, \$.15.

Friday, April 30, 1909, San Francisco:
2 telephone calls, \$.10. Conferred with Mr. Heney in re land fraud cases. 3 street-car fares, \$.15. Instructed Stoner and Bowman in re Alaska coal cases. Issued T. R. 3921, San Francisco to Los Angeles, Cal. (\$14.00). S. P. R'y sleeper, San Francisco to Los Angeles, Cal., \$.25. Transfer baggage, hotel to depot, \$.50. Bus fare, hotel to depot, \$.50. Parcel checking of suit case, \$.25. Left San Francisco, 5 p. m.

Daily record of work and expenses, May, 1909.

[All signed "L. R. Glavis, special agent."]

Saturday, May 1, 1909, Los Angeles, Cal.:

Arrived at Los Angeles at 9 a. m. Fee to porter, \$.25. Transfer of baggage depot to hotel, \$.50. Called at land office, secured mail and answered same. Commenced investigation of Alaska coal cases. Issued T. R. 3922, Los Angeles to San Diego and return (\$5.00). Santa Fe R'y, sleeper, \$2.00. 4 street-car fares, \$.20. Issued T. R. 3923 for three tickets, Los Angeles to Chicago, Ill. (\$177.60). Left Los Angeles at 11.55 p. m. Issued T. R. 3924 for 3 Pullman berths, Los Angeles to Chicago (\$42.00).

May 2, 1909, Sunday, San Diego-Los Angeles:

Arrived San Diego at 7 a. m. Fee to porter, \$.25. Bus fare, depot to hotel, \$.50. Endeavored to locate Thomas Christopher and Thomas Tucker. 3 street-car fares, at 10 cents, \$.30. Bus fare, hotel to depot, \$.50. Santa Fe R'y, parlor-car fare, San Diego to Los Angeles, \$.50. Fee to porter, \$.25. Left San Diego at 2.05 p. m.; arrived Los Angeles 6.30 p. m. 1 street-car fare, \$.05.

Monday, May 3rd, 1909, Los Angeles-Pasadena:

Located whereabouts of 14 coal claimants. Made investigation in re their character, etc. Left Los Angeles at 1.30 p. m. for Pasadena. Endeavored to interview three claimants; returned to Los Angeles at 5 p. m. P. E. R'y Co., fare to Pasadena and return, \$.25. 3 street-car fares in Los Angeles, \$.15. 2 street-car fares in Pasadena, \$.10.

Tuesday, May 4th, 1909, Los Angeles-Pasadena:

Wrote four letters in re work in division. Left Los Angeles at 1 p. m. for Pasadena. P. E. R'y Co., fare Los Angeles to Pasadena and return, \$.25. Sent two telegrams to Agent Doyle, \$.54. 2 street-car fares in Pasadena, \$.10. 2 street-car fares in Los Angeles, \$.10. Secured affidavits of J. W. Wood, L. Isaman, and Sara Isaman. Returned to Los Angeles at 7 p. m.

Wednesday, May 5, 1909, Los Angeles:

Interviewed Mrs. Anna White in re Alaska coal claim. Instructed Stoner and Bowman in re making investigations. 4 street car fares, \$.20; 1 telephone message, \$.10.

Thursday, May 6th, 1909, Los Angeles: En route to Chicago:

Left Los Angeles at 9.45 a. m. Transfer baggage hotel to depot, \$.50.

Friday, May 7th, 1909, on train:

En route to Chicago. Fee to porter, \$.25.

Saturday, May 8th, 1909, on train:

En route to Chicago. Fee to porter, \$.25.

May 9th, 1909 (Sunday), Chicago, Ill.:

Arrived at Chicago at 1.30 p. m. Fee to porter, \$.25. Transfer baggage, depot to hotel, \$1.00. Bus fare, depot to hotel, \$.50.

Monday, May 10th, 1909, Chicago:

Attended to correspondence received from headquarters. Secured present addresses of some of the coal claimants. Commenced investigation of coal cases.

Tuesday, May 11, 1909, Chicago:

Worked on coal cases; instructed agents, etc. Also attended to mail.

Wed., May 12th, 1909, Chicago:

Attended to mail received from Seattle; worked on Alaska coal cases. Issued T. R. 3925 for four tickets to Detroit, Mich. (\$22). Issued T. R. 3926 for four berths to Detroit, Mich. (\$18). Hack hire, hotel to depot, \$0.50. Left Chicago at 11 p. m.

Thursday, May 13th, 1909, Detroit, Mich.:

Arrived at Detroit at 7.30 a. m. Hack hire, depot to hotel, \$0.50. Transfer of baggage, depot to hotel, \$0.50. Commenced investigation of Alaska coal cases; took affidavits of James H. Donaldson and Chas. A. Sauppe and interviewed others.

Friday, May 14th, 1909, Detroit, Mich.:

Interviewed Heyman, Roehm in re his coal claim. Interviewed Chas. M. Roehm and H. W. Paton, treasurer and secretary, respectively, of Michigan Alaska Development Company, involving about 160 claims; secured books and records of company. Worked until midnight comparing and copying records. 5 street-car fares in Detroit, \$0.25.

Saturday, May 15th, 1909, Detroit, Mich.:

Met the officers of the Michigan Alaska Development Co. Secured affidavits of the seven present in re coal cases. For typewriting records of said company, \$24.00. Transfer of baggage, hotel to depot, \$1.00. Left Detroit at 8.05 p. m. Michigan Central R. R. sleeper to Pittsburgh, Pa., \$2.00. Excess baggage, Detroit to Washington, \$3.45. Ticket to Washington secured on T. R. of Agent Kennedy. Bus fare, hotel to depot, \$0.25.

Sunday, May 16th, 1909, Pittsburgh, Harrisburg, Washington:

Arrived at Pittsburgh at 7 a. m. Fee to porter on sleeper, \$0.25. Left Pittsburgh at 7.05 a. m. Pennsylvania R. R. Co. parlor car fare to Harrisburg, \$1.00. Pennsylvania R. R. Co. parlor car fare to Washington, \$0.65. Arrived at Washington at 4.30 p. m. Fee to porter, \$0.25.

Monday, May 17th, 1909, Washington, D. C.:

In conference with Secretary and commissioner relative to result of investigations in re Alaska coal cases.

Tuesday, May 18th, 1909, Washington, D. C.:

Attending to routine work affecting my field division. Transfer of trunk, depot to office, \$0.75.

Wed., May 19th, 1909, Washington, D. C.:

Conferred with chiefs of divisions in re reports and accounts. Conferred with the Attorney-General in re Oregon matters.

Thurs., May 20, 1909, Washington, D. C.:

Working on Alaska coal cases.

Friday, May 21st, 1909, Washington, D. C.:

Working on Alaska coal cases.

Sat., May 22, 1909, Washington, D. C.:

Working on Alaska coal cases.

Sun., May 23rd, 1909, Washington, D. C.:

Working on Alaska coal cases.

Mon., May 24th, 1909, Washington, D. C.:

Working on Alaska coal cases.

Tues., May 25th, 1909, Washington, D. C.:

Conferred with Attorney-General relative to Oregon matters and Alaska coal cases.

Wed., May 26th, 1909, Washington, D. C.:

Submitted report on Alaska coal cases involving 782 entries.

Thurs., May 27, 1909, Washington, D. C.:

Conferred with Secretary relative to Alaska coal cases.

Fri., May 28th, 1909, Washington, D. C.:

Instructed Bowman in re investigation of Alaska coal cases and attended to routine work received from Seattle.

Sat., May 29th, 1909, Washington, D. C.:

Preparing monthly accounts and arranging data to be covered by report to Attorney-General relative to Oregon land fraud cases.

Sun., May 30th, 1909, Washington, D. C.:

Did not attend to any work.

Mon., May 31st, 1909, Washington, D. C.:

Legal holiday.

Daily record of work and expenses, June, 1909.

[All signed "L. R. Glavis, Special Agent."]

Tuesday, June 1, 1909, Washington:

Rearranging the original papers in the Alaska coal cases.

Wednesday, June 2, 1909, Washington, D. C.:

Conferred with clerks, Division P, in re cases reported.

Thursday, June 3, 1909, Washington, D. C.:

Conferred with chief field service and clerks Division P. Transfer baggage (trunk), house to depot, \$.50. Penn. Ry., sleeper, Wash. D. C., to New York, \$2.00.

Friday, June 4, 1909, en route:

Left Washington, D. C., at 12.30 a. m.; arr. New York 7.30 a. m. Fee to porter on sleeper, \$.25. Hack hire, depot to hotel, \$.50. Transfer baggage (2 trunks), depot to hotel, \$.75. Endeavoring to locate Helen Bushnell and other coal claimants.

Saturday, June 5, 1909, New York:

Endeavoring to locate coal claimants Alaska coal cases.

Sunday, June 6, 1909, New York, en route:

Took affidavit in re coal case. Issued T. R. No. — to Penn. Ry. for fare, New York to Chicago. Transfer baggage, hotel to depot, \$.90. Left New York 3.45 p. m. P. P. C. Co., fare, New York to Chicago, \$5.00.

Monday, June 7, 1909, Chicago:

Arrived in Chicago 9 a. m. Fee to porter on sleeper, \$.25. Checking hand baggage, \$.10 Street car fares (5), \$.25. Made investigation of qualifications of applicant Herbert S. Foreman for appointment as special agent. Made favorable report by wire. Left Chicago 6.30 p. m.

Tuesday, June 8, 1909, en route:

Arrived St. Paul 11 a. m. P. P. C. Co., St. Paul, fare St. Paul to Seattle, \$12.00 Left St. Paul 11 a. m., en route Seattle.

Wednesday, June 9, 1909, en route Seattle:

Fee to porter on sleeper, en route Seattle, \$.25.

Thursday, June 10, 1909, Seattle:

Fee to porter on sleeper, en route Seattle, \$.25. Arrived Seattle 9.30 p. m. Transfer baggage, depot to hotel, Seattle, .50.

Friday, June 11, 1909, Seattle:

In office. Transfer baggage (being office files), depot to office, \$.50.

Saturday, June 12, 1909, Seattle:

In office until 11 p. m.

Sunday, June 13, 1909, Seattle:

In Seattle.

Monday, June 14, 1909, Seattle:

In office.

Tuesday, June 15, 1909, Seattle:

In office until 11 p. m.

Wednesday, June 16, 1909, Seattle:

In office.

Thursday, June 17, 1909, Seattle:

In office.

Friday, June 18, 1909, Seattle:

In office until 11 p. m.

Saturday, June 19, 1909, Seattle:

In office.

Sunday, June 20, 1909, Seattle:

In office.

Monday, June 21, 1909, Seattle:
In office until 11 p. m.
Tuesday, June 22, 1909, Seattle:
In office until 11 p. m.
Wednesday, June 23, 1909, Seattle:
In office until 11 p. m.
Thursday, June 24, 1909, Seattle:
In office until 11 p. m.
Friday, June 25, 1909, Seattle:
In office until 10 p. m.
Saturday, June 26, 1909, Seattle:
In office until 11 p. m.
Sunday, June 27, 1909, Seattle:
In office.
Monday, June 28, 1909, Seattle:
In office until 11 p. m.
Tuesday, June 29, 1909, Seattle:
In office.
Wednesday, June 30, 1909, Seattle:
In office until 11 p. m.

Daily record of work and expenses, July, 1909.

Thursday, the 1st day of July, 1909, Seattle, Wash.
Issued T. R. 47911 to Portland, Ore. & return (\$11.20).
Securing evidence in Alaska coal cases and attending to office work. Worked in evening until 11 p. m.
Friday, the 2nd day of July, 1909, Seattle, Wash.:
Worked on Alaska coal cases. Attended to office work.
Saturday, the 3rd day of July, 1909:
Sick—did not attend to official duties.
Sunday, the 4th day of July, 1909:
Sunday.
Monday, the 5th day of July, 1909:
Legal holiday.
Tuesday, the 6th day of July, 1909, Seattle, Wash.:
Worked on Alaska coal investigations, and attended to office work.
Wednesday, the 7th day of July, 1909, Seattle, Wash.:
Submitted report in re M. A. Arnold coal entry.
Thursday, the 8th day of July, 1909, Seattle, Wash.:
Office work. Made adverse reports on Dunn group and Cunningham group, Alaska coal entries.
Friday, the 9th day of July, 1909, Seattle:
Office work. Made adverse reports in re Dickerman group and Brown group, Alaska coal entries.
Saturday, the 11th day of July, 1909, Seattle, Wash.:
Office work. Secured Harry White's affidavit in re Green group.
Sunday, the 12th day of July, 1909, Seattle, Wash.:
No work performed.
Monday, the 13th day of July, 1909, Seattle, Wash.:
Submitted adverse report in re Doughten group, Alaska coal cases. Favorably reports Walsh group and Flint group, 4. Submitted favorable report in re White group, Alaska coal cases, 3. Submitted favorable report in re Runnels group, Alaska coal cases, 3. Submitted favorable report in re Warddell group, Alaska coal cases, 4. Submitted favorable report in re Harkrader group, Alaska coal cases, 4. Submitted favorable report in re Kriifting group, Alaska coal cases, 2.
Coal filings: Reports submitted—good, 20; bad, 40.
Tuesday, the 14th day of July, 1909, Seattle, Wash.:
Office work.
Thursday, the 15th day of July, 1909, Seattle, Wash.:
Made adverse report in re Christopher, Simmonds and Letcher group, Alaska coal cases, 71 cases. Made adverse report in re Stracey group, Alaska coal cases, 78 cases. Coal filings: Reports submitted—bad, 149.
Friday, the 16th day of July, 1909, Seattle, Wash.:
Office work. Made adverse report in re Watson group, Alaska coal filings, 39 cases, and 25 cases in same group favorably reported.
Coal filings, reports submitted: Good 25; bad, 39.

Saturday, the 17th day of July, 1909, Seattle, Wash.:

Office work. Made adverse report in re T. T. by Northern Commercial Co.—

A. X 43.

Sunday, the 18th day of July, 1909, Seattle, Wash.:

Monday, the 19th day of July, 1909, Seattle, Wash.:

Office work. Made adverse reports in re Bushnell, McAlpine, and Mackey group, Alaska coal cases. Made favorable reports in re 8 lieu selections (X64, 65, 69, 70, 71, 72, 73, & X9), 2 T. & S. C. Es (X310, 311), and H. E. 18976 (S. 228). Worked in evening until 10.30 p. m. on Alaska coal cases.

Reports submitted: Homestead: Good, 1. Timber and stone: Good, 2. Coal filings: Bad, 175. Lieu selections: Good, 8.

Tuesday, the 20th day of July, 1909, Seattle, Wash.:

Office work.

Wednesday, the 21st day of July, 1909, Seattle, Wash.:

Office work.

Thursday, the 22nd day of July, 1909, Seattle, Wash.:

Office work.

Friday, the 23rd day of July, 1909, Seattle, Wash.:

Office work. Upon the verbal instructions of the commissioner am remaining at headquarters.

Saturday, the 24th day of July, 1909, Seattle, Wash.:

Office work.

Sunday, the 25th day of July, 1909, Seattle, Wash.:

Office work.

Monday, the 26th day of July, 1909, Seattle, Wash.:

Office work.

Tuesday, the 27th day of July, 1909, Seattle, Wash.:

Office work.

Wednesday, the 28th day of July, 1909, Seattle, Wash.:

Office work; preparing cases for field trip.

Thursday, the 29th day of July, 1909, Seattle, Wash.:

Transfer baggage, hotel to depot, \$.50. Issued T. R. No. 47912, N. P. Ry. Co., Seattle to Portland (\$5.60); N. P. Ry. Co., sleeper Seattle to Portland, \$2. Office work; prepared cases for field exam. Left Seattle at midnight.

Friday, the 30th day of July, 1909, Portland, Oreg.:

Fee to porter on sleeper 25 cts.; transfer baggage, depot to hotel, \$.50, bus fare depot to hotel, 25 cts. Arr. Portland at 8 a. m.; conferred with Forest Service in re Alaska coal cases and in reference to employment of Gabriel Wingate. Gave Wingate verbal instructions.

Saturday, the 31st day of July, 1909, Portland, Ore.:

Wrote instructions for Gabriel Wingate in re coal cases. Conferred with Forest Service.

Daily record of work and expenses, August, 1909.

Sunday, the 1st day of August, 1909, Portland, Oregon:

Wrote daily reports and prepared monthly account.

Monday, the 2nd day of August, 1909, Portland, Oregon:

Locating coal claimants to be interviewed; tried to interview C. R. Mears; investigated A. B. Crossman's participation in certain coal companies.

Tuesday, the 3rd day of August, 1909, Portland, Oregon:

Took affidavits of A. A. Lindsley, E. C. Mears, and I. B. Hammond; also interviewed Mr. Pittoch, of the Oregonian in re Alaska coal cases.

Wednesday, the 4th day of August, 1909, Portland, Oregon:

N. P. Ry. Co., fare to Seattle, Wash., \$.50; N. P. Ry. Co., sleeper, \$2.00; transfer of baggage, \$.50; bus fare, hotel to depot, 25 cts. Interviewed W. H. Hurlburt and Mr. Pendleton, of firm of Buffum & Pendleton; secured from Mr. Pendleton the minute book of the Anglo-American Oil & Coal Company. Worked late copying and comparing same.

Left for Seattle at midnight.

Thursday, the 5th day of August, 1909, Seattle, Wash.:

Fee to porter 25 cts.; transfer of baggage, 25 cts. Office work.

Friday, the 6th day of August, 1909, Seattle & en route to Spokane:

N. P. Ry. Co., sleeper to Spokane, \$2.50; transfer baggage, \$.50. Office work; left for Spokane at 10.30 p. m. Transportation furnished on T. R. of Agt. Gery's.

Saturday, the 7th day of August, 1909, Spokane, Wash.:

Fee to porter, 25 cts.; transfer of baggage, \$.50. Arrived at Spokane at 2 p. m., too late to interview any of the claimants.

Sunday, the 8th day of August, 1909, Spokane, Wash.:
No work performed.

Monday, the 9th day of August, 1909, Spokane, Wash.:
Conferred with Hon. G. F. Pinchot in re coal cases.

Tuesday, the 10th day of August, 1909, Spokane, Wash.:
Issued T. R. 47913, to Chicago, Ill., N. P. Ry. (\$48.10), N. P. Ry. Co. sleeper to St. Paul, Minn., \$9.50. Transfer baggage, hotel to depot, 50 cts. Worked on coal cases; left Spokane at 10 p. m.

Wednesday, the 11th day of August, 1909, en route to Chicago, Ill.:
Fee to porter on sleeper, 25 cts.

Thursday, the 12th day of August, 1909, en route to Chicago, Ill.:
Fee to porter, \$0.25.

Friday, the 13th day of August, 1909, Chicago, Ill.:
Fee to porter on sleeper, 25 cts. Pullman berth, St. Paul, Minn., to Chicago, Ill., \$2.50. Bus fare, depot to hotel, Chicago, 50 cts. Transfer baggage, depot to hotel, Chicago, 50 cts. Arrived at Chicago at 10.40 p. m.

Saturday, the 14th day of August, 1909, Chicago, Ill.:
Worked on Alaska coal cases.

Sunday, the 15th day of August, 1909, Chicago, Ill.:
Issued T. R. 47914, Penn. Co., Chicago to New York (\$20.00), & T. R. 47915, for berth and extra fare (\$15.00); bus fare, hotel to depot, 50 cts.; transfer baggage, hotel to depot, 50 cts. Worked on Alaska coal cases; left Chicago at 2.45 p. m.

Monday, the 16th day of August, 1909, New York City:
Fee to porter on sleeper, 25 cts.; transfer baggage, depot to house, \$.50; N. Y., N. H. & H. R. R. sleeper, New York to Boston, Mass., \$2.00. Issued T. R. 47916, N. Y., N. H. & H. R. R., New York to Boston (4.05). Arr. in New York at 10 a. m. Worked on Alaska coal cases. Left New York at midnight.

Tuesday, the 17th day of August, 1909, Boston, Mass., & Beverly, Mass.:
Fee to porter, 25 cts.; Boston & Maine R. R., fare, Boston to Beverly, 35 cts.; bus fare, depot to hotel, Beverly, \$.25. Arr. Boston at 7 a. m. Left Boston at 7.30 a. m., arr. Beverly at 8.15 a. m. Conferred with the President's Secretary during the morning. In the afternoon received instructions to confer with the President at 3 p. m. to-morrow.

Wednesday, the 18th day of August, 1909, Beverly, Mass., and Boston:
Boston & Maine R. R., fare Beverly to Boston, 35 cts. Hack hire, Beverly to the President's residence and return, \$3.50. In conference with the President in re Alaska coal cases. Returned to Boston at 5.40 p. m.; arr. at 6.20 p. m.

Thursday, the 19th day of August, 1909, Boston, Mass.:
Remained in Boston for further instructions, at request of the President.

Friday, the 20th day of August, 1909, Boston, Mass.:
Remained in Boston for further instructions at request of the President.

Saturday, the 21st day of August, 1909, Boston, Mass.:
Remained in Boston for further instructions at request of the President.

Sunday, the 22nd day of August, 1909, Boston, Mass.:
Monday, the 23rd day of August, 1909, Boston, Mass.:
N. Y., N. H. & Hartford R. R., sleeper to New York City, \$1.50. Issued T. R. 47917 (\$4.65). Received instructions from the President. Left Boston at midnight. Great Northern Hotel, Chicago, Ill., will be my address until Aug. 27th.

Tuesday, the 24th day of August, 1909, New York City:
Fee to porter, 25 cts. N. Y. Central Ry., sleeper to Chicago, \$5.00. Issued T. R. No. 47918 (\$24.00). Transfer baggage, house to depot, 50 cts. Arrived in N. Y. at 7 a. m. Left New York at 5.20 p. m.

Wednesday, the 25th day of August, 1909, Chicago, Ill.:
Fee to porter, 25 cts. Transfer baggage depot to hotel, 50 cts. Bus fare, depot to hotel, 50 cts. Arrived at Chicago at 5.30 p. m.

Thursday, the 26th day of August, 1909, Chicago, Ill.:
Telegraph message, 47 cts. Worked on coal cases, preparing & segregating evidence in the different groups, in order to determine what additional evidence is obtainable.

Friday, the 27th day of August, 1909, Chicago, Ill.:
Issued 47919, C. N. W. Ry. Co., Chicago to Portland (\$56.90). Issued T. R. 47920, Pullman Co. sleeper, St. Paul, Minn., to Seattle (\$12.00). Worked on Alaska coal cases, preparing and segregating the evidence in the different groups; reviewed the evidence and determined on what further investigation is necessary in the East; to be assigned to Agt. Bowman.

Saturday, the 28th day of August, 1909, Chicago, Ill.:
Had 5 interviews and made other efforts to locate Robert A. Foster & Shirley S. Philbrick in re Alaska coal cases.

Sunday, the 28th day of August, 1909, Chicago, Ill., & en route to St. Paul, Minn.: C. N. W. Ry., sleeper to St. Paul, Minn., \$2.00; transfer of baggage, hotel to depot, \$0.25; bus fare, hotel to depot, 50 cts. Mailed Bowman detailed instructions in re investigations to be made in Detroit & other sections of the East. Left Chicago at 10.10 p. m.

Monday, the 30th day of August, 1909, St. Paul, Minn., & en route to Seattle:

Fee to porter on sleeper, 25 cts. Arr. St. Paul at 10 a. m. Left St. Paul at 11 a. m.

Tuesday, the 31st day of August, 1909, en route to Seattle, Wash.:

Fee to porter on sleeper, 25 cts.

Daily record of work and expenses, September, 1909.

Wednesday, the 1st day of Sept., 1909, Seattle, Wash.:

Fee to porter, 25 cts; transfer baggage, depot to hotel, 50 cts. Arr. Seattle at 8.30 p. m.

Thursday, the 2nd day of Sept., 1909, Seattle, Wash.:

Office work.

Friday, the 3rd day of Sept., 1909, Seattle, Wash.:

Office work. Worked in evening until 10.30 p. m.

Saturday, the 4th day of Sept., 1909, Seattle, Wash.:

Office work.

Sunday, the 5th day of Sept., 1909, Seattle, Wash.:

Worked in office half a day.

Monday, the 6th day of Sept., 1909, Seattle, Wash.:

Office work.

Tuesday, the 7th day of Sept., 1909, Seattle, Wash.:

Office work.

Wednesday, the 8th day of Sept., 1909, Seattle, Wash.:

Office work.

Thursday, the 9th day of Sept., 1909, Seattle, Wash.:

Office work.

Friday, the 10th day of Sept., 1909, Seattle, Wash.:

Office work.

Saturday, the 11th day of Sept., 1909, Seattle, Wash.:

Office work.

Sunday, the 12th day of Sept., 1909, Seattle, Wash.:

Office work.

Monday, the 13th day of Sept., 1909, Seattle, Wash.:

Office work.

Tuesday, the 14th day of Sept., 1909, Seattle, Wash.:

Office work.

Wednesday, the 15th day of September, 1909, Seattle, Wash.:

Office work.

Thursday, the 16th day of Sept., 1909, Seattle, Wash.:

Office work.

Friday, the 17th day of Sept., 1909, Seattle, Wash.:

Office work.

Saturday, the 18th day of Sept., 1909, Seattle, Wash.:

Office work.

Mr. BRANDEIS. I would also like the Committee to obtain and put in the record a copy of the President's letter to Mr. Ballinger of August 13 that appears not to be in the Senate Document 248. I think I have an informal copy of that, but I think an absolutely correct copy ought to go in the record.

The CHAIRMAN. I wish you would put your request for the document in writing.

Mr. BRANDEIS. I will do so. I introduce now the telegram of Secretary Ballinger dismissing Mr. Glavis, as follows:

WASHINGTON, D. C., November 16, 1909.

L. R. GLAVIS,
Chief of Field Divn., Gen. Land Ofs.,
Postoffice Building, Seattle, Wn.

By authority of the President you are hereby removed as special agent of the General Land Office and chief of the seventeenth field division and separated from the

government service to take effect from and after September 18, 1909. Transfer all records and property in your custody to Chief of Field Div. Christenson in accordance with instructions to him, September 18.

BALLINGER, *Secretary*.

I also introduce the letter of Mr. Glavis to the President of September 20, which I would like to have also an accurate copy of it printed in the record. It is as follows:

SEPTEMBER 20, 1909.

The PRESIDENT.

SIR: I have laid before you all the essential facts in my possession regarding the official conduct of certain cases by the Department of the Interior concerning coal lands in Alaska as chief of the field division directly concerned, and because of the tremendous values involved. I felt my personal responsibility most keenly.

The evidence indicated that a great syndicate is trying to secure a monopoly of this coal, in direct violation of the law. Ultimately I felt myself obliged to appeal to you over the heads of my superior officers in order to bring about the enforcement of the law, which, in a measure, would concede these coal lands to the people at large. I deemed it my duty to submit the facts to you and I can not regret my action. Since there may be now even greater danger that the title to these coal lands will be fraudulently secured by the syndicate, it is no less my duty to my country to make public these facts in my possession, concerning which I firmly believe that you have been misled. This I shall do in the near future, with a full sense of the seriousness of my action and with a deep and abiding respect for your great office.

Respectfully,

L. R. GLAVIS.

The CHAIRMAN. Does that close your case?

Mr. BRANDEIS. For to-day. That is all the evidence I have to introduce at present. Mr. Jones and other witnesses are coming to appear before the committee.

The CHAIRMAN. These two are the only witnesses you have here?

Mr. BRANDEIS. These other witnesses are the witnesses in rebuttal and not in chief, so it would hardly be proper to put them on the stand now. Mr. Richardson was to be a witness in chief, in part, but Mr. Hoyt in his testimony this morning covered what I wished to prove by Mr. Richardson.

The CHAIRMAN. I would like to inquire if Mr. Pinchot's attorney is here?

Mr. BRANDEIS. They do not appear to be here.

The CHAIRMAN. Is Mr. Pinchot, Mr. Price, or Mr. Shaw in the room.

Mr. SHAW. What is it, Senator?

The CHAIRMAN. Have you any evidence to give relative to these Alaska coal cases?

Mr. SHAW. I have some little connection with the Alaska coal cases.

The CHAIRMAN. Is your attorney here?

Mr. SHAW. No, sir; he was in town this morning.

Mr. BRANDEIS. Mr. Chairman, I think that Mr. Pepper and Mr. Smyth supposed the cross-examination of Mr. Glavis would continue for some time this morning, and therefore did not assume that they would be called upon to-day.

The CHAIRMAN. It would not be fair to Mr. Shaw to call on him in the absence of his attorney.

Mr. JAMES. Mr. Chairman, I move that the committee adjourn.

The CHAIRMAN. Is the other side ready to proceed? Are you ready, Mr. Vertrees?

Mr. VERTREES. No, sir; we are not expecting to proceed until they have presented the evidence which they have to present.

The CHAIRMAN. I understand that they have no more, except what they expect to put in in rebuttal.

Mr. JAMES. No; you are mistaken about that, Mr. Chairman.

Mr. BRANDEIS. No; that is not correct, Mr. Chairman. We have none that is available at the present time. You will remember that Mr. Jones, who is one of our witnesses, was detained in the trial of the Hermann case, and with our consent you authorized that he be not subpoenaed at the present time. There are also some other documents that we will want to introduce in evidence.

The CHAIRMAN. Are not the documents here?

Mr. BRANDEIS. Not everything; no, sir.

Mr. VERTREES. Mr. Brandeis, is it expected that we shall proceed at the next session, or will you have other evidence at that time?

Mr. BRANDEIS. When will be the next session?

The CHAIRMAN. On next Friday, at 10 o'clock.

Mr. BRANDEIS. I think we can communicate definitely with you in regard to that after talking with Mr. Pinchot. I suppose he will be prepared to go on then.

The CHAIRMAN. Responses have been received to calls made by the committee for documents as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 19, 1910.

HON. KNUTE NELSON,
Chairman of the Joint Committee, United States Senate.

SIR: Under your request of February 1, you make call for 15 specifications of documents and records. Paragraph 15 is as follows:

"All correspondence and telegrams, July 1, 1909, to date, passing between Messrs. Ballinger, Pierce, Schwartz, Dennett, McEniry, Colter, or any of them."

I have to advise you that, by reason of the fact that Chief of Field Service Schwartz until recently signed practically all letters of instruction to chiefs of field division, there will be in the files of this office many hundred letters addressed to chiefs of field division McEniry and Colter upon all classes of cases being investigated in the field; also that, as Commissioner Dennett signs the majority of letters transmitting appeals and records of various kinds from the General Land Office to the Department of Interior proper, there will be many hundred such letters covering the whole field of the General Land Office's work. This also applies to Mr. Schwartz during such time as he was acting as assistant commissioner, during the months of July, August, and a part of September, 1909.

In view of the foregoing, I should be pleased to have you indicate the general subject-matters which are intended to be covered by paragraph 15. In complying with the paragraph as now written, there will be transmitted to you an immense volume of matter, which by no possibility could have relation to any of the matters which will, or might, come before your committee for consideration.

Respectfully,

R. A. BALLINGER, *Secretary.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 19, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Referring to the request of the Joint Committee of Congress calling for documents, correspondence, etc., I have the honor to report as to the papers that have not yet been transmitted to you.

Paragraph 4. List of January 29, 1910.

Everything called for in this paragraph has been sent, with the exception of the report books of Agent Love. On January 31, 1910, Agent Christensen reported that he wired Mr. Love that day:

"Joint Committee desires your daily report books from June fifteenth, nineteen seven, to date of retirement from service."

Agent Love replied:

"All report books but the last turned in to Glavis in Portland, nineteen eight. Will bring that with me. Leaving for Seattle to-day."

Agent Christensen also states that he has searched the records of the offices of the field service at Portland and Seattle, but was unable to find any report books of Agent Love covering the period mentioned.

No report books were kept by any of the special agents after July 1, 1909, on account of the new daily reports which were put in use at that time.

Paragraph 5. List of January 29, 1910.

The joint committee calls for:

"Personal letter, L. R. Glavis to H. H. Schwartz, dated on or about November 22, 1907."

Mr. Schwartz advises me that he has no personal recollection of the contents of the letter in question, and has absolutely no knowledge that the same was ever by him retained. For these reasons I am unable to furnish the letter in question. Mr. Schwartz is unable to state whether the copy quoted by Mr. Glavis on page 41 of the hearings, record of January 28, 1910, is approximately correct, but he does not question the letter.

Paragraph 10. List of January 29, 1910.

The joint committee calls for:

"Telegram of L. R. Glavis, dated March 6, 1908, in relation to Alaska coal claims."

I am unable to find the telegram in question. Mr. Schwartz recalls it as a telegram from Wallace, Idaho, or Spokane, Wash., from Glavis to him, wherein Glavis advised of getting the Cunningham book, and wherein he quoted that part of the book which is the last paragraph on page 22 of Mr. Glavis's testimony before the committee. Mr. Schwartz showed this telegram to Secretary Garfield, and his further recollection is that it remained in the Secretary's possession, but as to that he is not positive. In any event, the telegram was never filed. The same was answered by office letter to Mr. Glavis which appears at the top of page No. 466 of Senate Document No. 248.

Paragraph 13. List of January 29, 1910.

All of the correspondence referred to in this paragraph was sent on February 4, 1910, except such as, in my opinion, should not be presented until such time as Mr. Schwartz appears as a witness. However, I send to-day, by separate letter, correspondence between Messrs. Schwartz and Colter in so far as now located. Remaining letters, if any, can not be found, as Mr. Schwartz does not ordinarily preserve personal correspondence. Further search is being made. The additional matter to-day transmitted will be found in book entitled Glavis-Shaw and papers attached thereto.

Paragraph 15. List of January 29, 1910.

The joint committee calls for:

"Personal letter of L. R. Glavis to Schwartz of April, 1908, referred to in letter of April, 1908, to Hon. R. A. Ballinger, September 10, 1909 (Senate Doc. 248, p. 99)."

Mr. Schwartz has not such a letter and has no satisfactory recollection of the same. It is probable that the communication of which he speaks, on page 99 of Senate Document No. 248, as a personal letter from Glavis to himself, written early in April 1908, was, in fact, the telegram of March 6, 1908.

Paragraph 21. List of January 29, 1910.

The joint committee calls for:

"Any record of the hearing given to ex-Governor Moore by Commissioner Ballinger in December, 1907, referred to by Schwartz on page 224 and again on page 44 of the Senate Document 248 (President's message on Glavis's charges)."

There is no record of the hearing; no record was made; the hearing was an informal call and inquiry. Mr. Schwartz was in error in supposing a formal hearing had been had, or that Mr. Moore was accompanied by other claimants or persons.

Paragraph 23. List of January 29, 1910.

A copy of the letter of Commissioner Dennett to Agent Glavis of June 3, 1908, was sent to your committee on February 4, 1910. Under date of February 8, 1910, Agent Christensen reports that he is unable to find this original letter of June 3, 1908. It appears that this letter was transmitted to the joint committee on February 16, 19 by the Department of Agriculture in bundle No. 1, in response to papers called for.

Paragraph 14. List of February 1, 1910.

The joint committee calls for:

"Letter in Seattle land office now or formerly dated March 10, 1908, stating that writer thinks Judge McKenzie drafted Cale bill addressed to Hon. Oscar Foote."

A telegram was sent to the Seattle land office as follows:

"Joint committee of Congress calls for the following: 'Letter in Seattle land office now or formerly, dated March tenth, nineteen eight, stating that the writer thi

Judge McKenzie drafted Cale bill, addressed to Hon. Oscar Foote.' Make diligent search and forward letter immediately. Answer by wire."

On February 17, 1909, the register and receiver at Seattle wired

"Thoroughly examined our files, consulted Chief Christensen, interviewed Oscar Foote, and find no trace of letter described. Foote has no recollection of such letter. Do you want affidavit?"

On February 17, the following telegram was sent to the register and receiver at Seattle:

"Matter mentioned in your wire to-day. Secure affidavit of Oscar Foote in reference to matter mentioned my wire yesterday."

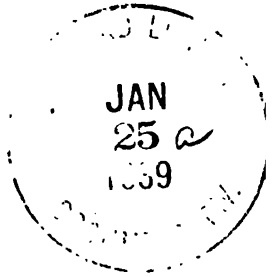
This affidavit will be forwarded to your committee as soon as received.

Very respectfully,

FRED DENNETT, *Commissioner.*

Senator SUTHERLAND. I move that the committee adjourn.

The motion was agreed to, and at 3 o'clock and 25 minutes p. m. the committee adjourned until Friday, February 25, 1910, at 10 o'clock a. m.



NO. 13

**HEARINGS BEFORE THE COMMITTEE TO INVESTIGATE THE
INTERIOR DEPARTMENT AND FORESTRY SERVICE**

FEBRUARY 25, 1910

**ROOM 207, SENATE OFFICE BUILDING
WASHINGTON, D. C.**

MEMBERS OF THE JOINT COMMITTEE.

KNUTE NELSON, Minnesota, Chairman.

SAMUEL W. McCALL, Massachusetts, Vice-Chairman.

FRANK P. FLINT, California.

GEORGE SUTHERLAND, Utah.

ELIHU ROOT, New York.

WILLIAM E. PURCELL, North Dakota.

DUNCAN U. FLETCHER, Florida.

MARLIN E. OLMSTED, Pennsylvania.

EDWIN DENBY, Michigan.

E. H. MADISON, Kansas.

OLLIE M. JAMES, Kentucky.

JAMES M. GRAHAM, Illinois.

PAUL SLEMAN, *Secretary.*

Judge McKenzie drafted Cale bill, addressed to Hon. Oscar Foote.' Make diligent search and forward letter immediately. Answer by wire."

On February 17, 1909, the register and receiver at Seattle wired

"Thoroughly examined our files, consulted Chief Christensen, interviewed Oscar Foote, and find no trace of letter described. Foote has no recollection of such letter. Do you want affidavit?"

On February 17, the following telegram was sent to the register and receiver at Seattle:

"Matter mentioned in your wire to-day. Secure affidavit of Oscar Foote in reference to matter mentioned my wire yesterday."

This affidavit will be forwarded to your committee as soon as received.

Very respectfully,

FRED DENNETT, *Commissioner*.

Senator SUTHERLAND. I move that the committee adjourn.

The motion was agreed to, and at 3 o'clock and 25 minutes p. m. the committee adjourned until Friday, February 25, 1910, at 10 o'clock a. m.

FRIDAY, FEBRUARY 25, 1910.

JOINT COMMITTEE TO INVESTIGATE THE INTERIOR DEPARTMENT AND FORESTRY SERVICE, *Washington, February 25, 1910.*

The Joint Committee to Investigate the Interior Department and Forestry Service met, pursuant to adjournment, at 10 a. m.

Present, Senators Nelson (chairman), Flint, Sutherland, Root, Fletcher, and Purcell; Representatives McCall, Olmsted, Denby, Madison, and Graham; Mr. Paul Sleman, secretary; also Mr. Louis D. Brandeis and Mr. Joseph P. Cotton, jr., representing Mr. Louis R. Glavis; also Mr. George Wharton Pepper, representing Mr. Gifford Pinchot; also Messrs. John J. Vertrees and Carl Rasch, representing Secretary Ballinger; also Mr. E. C. Finney.

The CHAIRMAN. The committee will come to order. Mr. Brandeis, you may proceed.

Mr. BRANDEIS. Mr. Chairman, I desire now to put in evidence a portion of the testimony and the documents submitted to the Committee on Territories by Mr. Birch and Mr. Steele, of the Morgan-Guggenheim Alaska syndicate, which appears in the printed report of that testimony. The whole report of the two hearings of February 18 and 19 cover a hundred and fifty-five pages. The part which it seems to me important to call to the attention of this committee covers a comparatively few pages, and my purpose was, with the consent of the committee, to read to the committee the passages which relate directly to the Alaska coal lands and the option of July 20, 1907, the acceptance of that option under date of December 7, 1907, and certain portions of the testimony relating to the value of the lands, and the circumstances under which the option was taken and accepted.

The CHAIRMAN. I want to say to the counsel that my understanding is that this statement taken before the Committee on Territories—I belong to that committee, but was not present at that time, because we were in session here—that that has not been taken under oath, if I understand it correctly. In addition, I want to say that before that statement was given before that committee, Mr. Birch and the attorney—I do not remember his name—

Mr. BRANDEIS. Mr. Steele—Mr. John N. Steele.

The CHAIRMAN. They wrote me that they wanted to appear before this committee, and I replied that we would give them a chance to appear after you got through with Mr. Glavis and your case, and I presume they will be coming here before the committee, or will want to come.

Mr. BRANDEIS. I should desire to call them as my witnesses, unless the testimony which they have already made is admitted as evidence.

The CHAIRMAN. Well, do you know whether this testimony was given under oath?

Mr. BRANDEIS. I do not, but I think that the important parts of the testimony, and particularly the documents, which are the most important parts, are matters as to which there probably is no dispute; is there, Mr. Vertrees?

Mr. VERTREES. Part of it, there is not. If you would allow me here I would suggest that you defer this application until we can determine whether these gentlemen will come before the committee. We would prefer to have them; otherwise we might admit this in evidence.

Mr. GRAHAM. Even if their statements were taken, I think they ought to appear and verify under oath—even if they were sworn at the other place, they should come here and verify what they testified to there.

The CHAIRMAN. I think that they were not sworn there. That is my information. If it is the desire of Mr. Brandeis, and the committee will agree to it, we will have them appear before the committee.

Mr. BRANDEIS. I would like very much to have that evidence introduced.

The CHAIRMAN. So that for the present you may withdraw this request.

Mr. BRANDEIS. I therefore defer this question until we find whether we can get them or not.

Mr. VERTREES. I will unite with you in an application that Mr. Birch be brought here.

Mr. BRANDEIS. Mr. Birch, and I suppose there are some matters that Mr. Steele knows. What we would like to have included is that the subpoena should subpoena them to bring with them not only the original documents, but all letters and copies of letters telegrams, and other communications relating to their connection with the Cunningham group.

The CHAIRMAN. Will you be kind enough to give in writing the form of the subpoena and the duces tecum that you desire, and we will have them subpoenaed?

Mr. BRANDEIS. I will submit it to the clerk.

Then, Mr. Chairman, I would like to call as the first witness to-day Mr. Horace Tillard Jones, whom I think is here.

The CHAIRMAN. The special agent, Jones?

Mr. BRANDEIS. Yes.

I would like to have the clerk, in connection with Mr. Jones, to introduce his daily reports, which I understand have been in process of examination with a view to determining whether there is anything in them which ought not to be published.

Before Mr. Jones testifies, I desire to submit, in response to the suggestion of the chairman, a typewritten statement of Mr. Glavis, containing the corrections in the testimony since he last submitted to the committee orally certain corrections. I thought that would save the time of the committee and probably be agreeable.

The CHAIRMAN. I wish you would submit it to Mr. Vertrees.

Mr. BRANDEIS. Very well.

Mr. VERTREES. We also have some, and I will submit them to you.

The CHAIRMAN. Yes; submit them to counsel on both sides, and if there is no objections the corrections will be made.

Senator FLINT. Before that is done, I suggest that after counsel have agreed to them a statement, a typewritten statement showing the corrections, be submitted to the committee before the record is changed, so that the committee may be satisfied that the record ought to be changed in that respect.

The CHAIRMAN. Very well. After counsel has disposed of it and come to an agreement, the committee will consider it.

STATEMENT OF HORACE TILLARD JONES.

Mr. BRANDEIS. I will introduce first, Mr. Chairman, the reports of Special Agent Jones for the period designated, and will call attention by reading certain portions of those, as I did in the case of Mr. Glavis. These have been examined.

The CHAIRMAN. Are those reports that are not already in?

Mr. BRANDEIS. These are daily reports, and none of them are in.

The CHAIRMAN. You mean his daily reports?

Mr. BRANDEIS. His daily reports; yes, sir.

The CHAIRMAN. Have you got the reports there?

Mr. BRANDEIS. Mr. Sleman is getting the reports, and I will hand them to the stenographer for marking.

The daily reports of Special Agent Jones from June, 1907, to December, 1909, inclusive, are as follows:

Daily reports, June, 1907.

[All signed "Horace Tillard Jones, Special Agent."]

June 1st, 1907, Portland, Oregon:

At U. S. land office, Portland, Oregon, making list of contests against Siletz homestead entrymen.

June 2, 1907, Portland, Or., Sunday.

June 3, 1907, Portland, Or.:

Made report, from data gathered at U. S. land office Portland, Or., in re ———, for the use of Spl. Insp. Neuhausen. Prepared transcript for Spl. Insp. Neuhausen of docket entries in contest cases: Chas. E. Hays *vs.* Alice Smith—Chas. E. Hays *vs.* Walter J. Smith—W. G. Howell *vs.* Alice Smith and Chas. E. Hays—W. G. Howell *vs.* Walter J. Smith and Chas. E. Hays, said contests being brought in the U. S. land office, Portland, Oregon.

June 4, 1907, Portland, Or.:

Prepared copy, in duplicate, of contest notice of Grover C. Gherking *vs.* Champ Smith, D. L. E. No. 138, The Dalles, Or., land district, for the use of Spl. Insp. Neuhausen. Also other office work.

June 5, 1907, Portland, Or.:

Prepared for use of Spl. Insp. Neuhausen copy of Inspector E. B. Linnen's confidential report of April 20, 1906, to commissioner. 15 typewritten pages.

June 6, 1907, Portland, Or.:

Consulted with register U. S. land office, Portland, Or., about surveys in Oregon.

June 7, 1907, Portland, Or.:

Making copies, for the use of Neuhausen, Special Inspector, of field notes of sections, townships, and ranges embraced in Oregon State Desert Land Selection Lists Nos. 3 and 4, at Surveyor General's Office. (Related to investigation directed to be made, as suggested in Commr's letter "F," 1906—173572, 1907—70295, C. C. K., of May 15, 1907.)

June 8, 1907, Portland, Or.:

Preparing copies of field notes, for Inspector Neuhausen, of lands embraced in Oregon State Desert Selection Lists 3 and 4.

June 9, 1907, Portland, Or., Sunday.

June 10th, 1907, Portland, Or.:

Making copies, for use of Inspector Neuhausen, of sections, townships, and ranges embraced in Oregon State Desert Land Selection Lists 3 and 4, at office of Surveyor General for Oregon.

June 11th, 1907, Portland, Or.:

At office of U. S. Surveyor General for Oregon preparing copy of field notes of survey of sections, townships and ranges embraced in Oregon State Desert Land Selection Lists 3 and 4, for the use of Inspector Neuhausen.

June 12th, 1907, Portland, Or.:

Making copies, for use of Inspector Neuhausen, of townships embraced in Oregon State Desert Land Selection List 3 and 4 and transmitted same to him. Made report as to knowledge of certain T. & S. and homestead applications in Roseburg and Lakeview land districts, to Inspector Neuhausen.

June 13th, 1907, Portland, Or.:

Prepared, for use of Special Inspector Neuhausen, copies of following letters:

June 14th, 1907:

Prepared original and carbon copy of answer of defendant to bill of complaint in case of U. S. *vs.* W. W. Steuver et al. No. 2911, for use of Inspector Neuhausen.

June 15th, 1907:

Preparing for use of Inspector Neuhausen chronological lists of papers in re the homestead proofs involved in the case of U. S. *vs.* W. W. Steuver et al. No. 2911.

June 16th, 1907, Portland, Oregon, Sunday.

June 17th, 1907, Portland, Oregon:

Preparing, for use of Inspector Neuhausen, chronological lists of final proof papers

June 18th, 1907, Portland, Oregon:

Preparing, for use of Inspector Neuhausen, chronological list of proofs in entries involved in case ———

June 19th, 1907, Portland, Oregon:

Preparing, for use of Inspector Neuhausen, chronological list of papers in re homestead proofs involved in case ———

June 20th, 1907, Portland, Oregon:

Preparing, for Inspector Neuhausen, chronological list of papers in re homestead entries involved in the case ———. Transmitted same to Inspector Neuhausen. Preparing, for Inspector Neuhausen, schedule of entries made in Siletz Reservation prior to Nov. 14, 1903. One special delivery stamp on official communication to T. Neuhausen, .10.

June 21, 1907, Portland, Oregon:

Preparing, for use of Inspector Neuhausen, a list of entries in former Siletz Indian Reservation, prior to November 14, 1903.

June 22, 1907, Portland, Or.:

Preparing, for use of Inspector Neuhausen, a list of entries in former Siletz Indian Reservation made prior to November 14, 1903.

June 23, 1907, Portland, Oreg., Sunday.

June 24th, 1907, Portland, Oregon:

Preparing schedule of entries for land in the former Siletz Indian Reservation made prior to Nov. 14, 1903, for Inspector Neuhausen.

June 25th, 1907:

Preparing schedule, for use of Inspector Neuhausen, of entries for land in former Siletz Indian Reservation made prior to Nov. 14, 1903.

June 26th, 1907, Portland, Oregon:

Preparing, for Special Inspector T. B. Neuhausen, schedule of entries made former Siletz Indian Reservation prior to November 14, 1903.

June 27th, 1907, Portland, Oregon:

Turned Siletz schedule over to Inspector Neuhausen and started investigation Alaska coal-land entries under authority of letter "P," H. H. S., 38231, dated June 1907. Wrote M. S. Duffield, Ely, Nev., in re Alaska coal lands. One special delivery stamp on letter to M. S. Duffield, Ely, Nevada, .10. To Kilham Stationery Co., Portland, Oregon, one loose-leaf note book and extra pages, 1.25.

June 29th, 1907, Portland, Oregon:
 Reading decisions relating to coal-land frauds. Conferring with L. R. Glavis, Chf. Field Div. No. 2.
 June 28th, 1907, Portland, Oregon:
 Reading up cases in re conspiracy, etc. Conferring with L. R. Glavis, Chief of Field Div. No. 2, in re specific cases of fraud in coal lands in Alaska, said cases being referred to me by Glavis in conjunction with the investigation ordered by letter addressed to me June 21, 1907, "P" H. H. S., No. 38231.
 June 30th, 1907, Portland, Oregon, Sunday.

Daily reports, July, 1907.

[All signed "Horace Tillard Jones, special agent."]

July 1st, 1907, Portland, Oregon:
 Reading decisions of Secretary of the Interior, and U. S. and Federal Reports in re conspiracy cases under sec. 5440, R. S., U. S.
 July 2nd, 1907, Portland, Oregon:
 Reading decisions of Secretary of the Interior, and U. S. and Federal Reports in re conspiracy cases under sec. 5440, R. S., U. S.
 July 3d, 1907, Portland, Oregon:
 Reading decisions of Secretary of Interior in re coal lands, and of U. S. and Federal Reports in re conspiracy cases under section 5440, R. S., U. S.
 Arranged, in alphabetical order, list of coal claims in Alaska, as per list transmitted from G. L. O. with letter "P" H. H. S. 38231 of June 21, 1907.
 July 4th, 1907, Portland, Oregon, holiday.
 July 5th, 1907, Portland, Oregon:
 Took affidavit of J. Frank Watson, of Portland, Oregon, in re coal land claim taken, in Alaska, by his wife, Mrs. J. Frank Watson.
 To Kilham Stationery and Publishing Company, for one loose leaf price book No. 504 and 500 sheets of paper for same, 1.60.
 July 6th, 1907, Portland, Oregon:
 Reading decisions and rules in re coal-land cases. Preparing for trip to Alaska. To Kilham Stationery & Publishing Co., for 250 sheets paper for loose leaf notebook, .50; to N. P. R. R. Co., berth in sleeper, Portland, Or., to Seattle, Wash., 2.00; one street car fare in Portland, Or., .05; Lv. Portland, 11.45 p. m., via N. P. R. R. See T. R. No. 27141 (fare, \$5.60) en route to Seattle, Wash.
 July 7th, 1907 (Sunday), Seattle, Wash.:
 At Seattle, Wash., 7.05 a. m. Fee to Pullman porter, .25; one street car fare in Seattle, Washington, .05.
 July 8th, 1907, Seattle, Wash.:
 En route to Alaska. Delayed waiting inspection of steamer "City of Seattle," by U. S. steamboat inspectors. Ship was to sail Monday morning at 9 o'clock, but will not sail until Tuesday evening at 9 o'clock.
 July 9th, 1907, Seattle, Washington:
 En route to Alaska. Delayed on account of inspection of steamer on which I was to have sailed July 8th at 9 a. m. Leave Seattle 9 p. m. en route to Juneau, Alaska. Fare via Pacific Coast Steamship Co.'s steamer "City of Seattle" (\$25.00). See T. R. 27142, including meals. No rebate for round trip.
 July 10th, 1907:
 En route to Juneau, Alaska.
 July 11th, 1907:
 En route to Juneau, Alaska.
 July 12th, 1907:
 En route to Juneau, Alaska.
 July 13th, 1907:
 En route to Juneau, Alaska; arrived at Juneau, Alaska, 6 p. m.
 July 14th, 1907, Juneau, Alaska: Sunday.
 July 15th, 1907, Juneau, Alaska:
 At U. S. land office, taking addressees of coal-land claimants.
 July 16th, 1907, Juneau, Alaska:
 At U. S. land office, gathering data relating to coal-land applicants.
 July 17th, 1907, Juneau, Alaska:
 At U. S. land office gathering data relating to coal land applicants.
 Lv. Juneau, Alaska, 8 p. m., en route to Seattle, Wash., via Pacific Coast Steamship Co.'s steamer "City of Seattle." Fare (\$25); same with or without meals. No rebate for round trip. See T. R. 27143.
 July 18th, 1907:
 En route to Seattle, Washington.

July 19th, 1907:
 En route to Seattle, Washington.
 July 20th, 1907:
 En route to Seattle, Washington. Ar. Seattle, Wash., 12 p. m.
 July 21st, 1907, Seattle, Wash.: Sunday.
 July 22nd, 1907, Seattle, Wash.:
 Conferring with honorable commissioner G. L. O. and special agent H. K. Love, in re coal land applications in Alaska.
 July 23rd, 1907, Seattle, Wash.:
 Getting addresses of coal-land applicants (in Alaska) assisted by H. K. Love, special agent G. L. O.
 July 24th, 1907, Seattle, Wash.:
 Getting addresses of applicants for coal-lands in Alaska, assisted by H. K. Love, special agent G. L. O.
 July 25th, 1907, Seattle, Wash.:
 Getting addresses of coal-land applicants in Alaska, assisted by H. K. Love, special agent G. L. O.
 July 26th, 1907, Seattle, Wash.:
 Getting addresses of coal-land applicants in Alaska, assisted by H. K. Love, special agent G. L. O.
 July 27th, 1907, Seattle, Wash.:
 Took affidavit of John R. Young in re his coal-land D. S., No. 367. Paid Northern Express Co. for express charges on Underwood typewriter from Portland, Oregon, to Seattle, Wash.
 July 28th, 1907, Seattle, Wash. Sunday.
 July 29th, 1907, Seattle, Wash.:
 Interviewed M. A. Green and W. O. Rinehart in re Alaska coal-land entries.
 One street-car fare in Seattle, Wash., \$.05; to N. P. R. R. Co. to berth in sleeper from Seattle, Wash., to Portland, Oregon, \$2.00; lv. Seattle, Wash., 10.20 p. m. en route to Portland, Or., fare via N. P. R. R., \$5.60.
 July 30th, 1907, Portland, Oregon:
 Ar. Portland, Oregon, 7 a. m. Fee to Pullman porter, \$.25; one street-car fare in Portland, Oregon, \$.05; transporting baggage from depot to home, \$.50; interview and took affidavits of F. L. Stanley and George H. Hill in re Alaska coal-land entries.
 July 31st, 1907, Portland, Oregon:
 Interviewed A. B. Croeman in re his coal-land claim in Alaska. Took affidavit Dr. J. T. Royles in re a list of some sixty-odd coal-land claims on Yukon River, Alaska.

Daily reports, August, 1907.

[All signed "Horace Tillard Jones, Special Agent."]

August 1, 1907, Portland, Oregon:
 Made out and mailed monthly account for July, 1907. Interviewed E. House in re coal-land D. S. 448.—S. J. Barber, in re coal land D. S. No. 446.—Took affidavit of A. B. Coveman in re coal land declaratory statements 83 and 105. Took affidavit of C. M. Cartwright in re coal land D. S. 363. All in Alaska dist.
 August 2nd, 1907, Portland, Oregon:
 Took affidavit of H. J. Morrison in re coal-land D. S. No. 91; took affidavit of D. Brown in re coal-land D. S. No. 281; both being Alaska series.
 One street car fare in Portland, Oregon, \$.05; to O. R. & N. Co., berth in sleeper, F. land, Or., to Spokane, Wash., \$2.50; Lv. Portland, Or., 7 p. m., en route to Spokane, Wash., T. R. 27144 via O. R. & N. Co., fare (\$11.20), no rebate for R. T.
 August 3, 1907, Spokane, Wash.:
 Ar. Spokane, Wash., 11.15 a. m. Fee to Pullman porter, \$.25; three street car fares in Spokane, \$.15. Interviewed and made personal affidavit in re coal claims in Alaska of: M. J. Kalez, D. S. 460—Wm. F. Boettscher, D. S. 480—G. H. Mueller, I. 482 & (Pauline Mueller) D. S. 467—F. H. Mason, D. S. 185. Took affidavit of H. S. Moore in re D. S. No. 369, Alaska.
 August 4, 1907, Spokane, Wash.:
 Took statement of Godfried H. Mueller in re coal D. S. 467, Pauline Mueller & I. 482 Godfried H. Mueller.
 August 5, 1907, Spokane, Wash.:
 Took affidavits of Fred H. Mason, D. S. 185 and A. B. Campbell, D. S. 161. Interviewed George Madgett in re D. S. 462. He refused to give statement. Took street car fares in Seattle, Wash., \$.10. Took statement of Andrew Anderson in re D. S. 498; took statement of Fred Jacobs in re D. S. 491; took statement of Mabel B. McIl in re D. S. 198.

To N. P. R. R. Co., berth in standard sleeper from Spokane, Wash., to Seattle, Wash., \$2.50. Lv. Spokane, Wash., 11 p. m., en route to Seattle, Wash., fare T. R. 27145 (\$10.10).

August 6, 1907, Seattle, Wash.:

Fee to Pullman porter, \$.25. Ar. Seattle, Wash., 2.30 p. m. Conferring with honorable Commissioner G. L. O. and H. K. Love, Special Agent G. L. O., in re Alaska coal-land investigation.

August 7, 1907, Seattle, Wash.:

To Lowman & Hanford, stationers, Seattle, Wn., for thirteen sheets of multicopy carbon paper, \$.50. Made duplicate typewritten copies of affidavits of J. Frank Watson, Harry White, H. J. Morrison, F. C. Harper, D. H. Brown, and C. M. Cartwright in re coal lands in Alaska.

August 8, 1907, Seattle, Wash.:

Had conference with honorable Commissioner G. L. O., H. K. Love, special agt. G. L. O., and C. F. Munday, atty. at law, concerning the Stracey coal lands in Alaska. Made typewritten copies in duplicate of affidavits of A. B. Crozman, Fred. S. Stanley, Geo. H. Hill, Fred Jacobs, Godfried H. Mueller, M. J. Kalez, J. R. Young, and Fred-erick & Wm. Felitz in re coal lands in Alaska.

August 9, 1907, Seattle, Wash.:

Took affidavits of Oscar & E. E. Foote in re D. S. Nos. 194 & 193. Made duplicate typewritten copies of same, and of affidavits of Harvey S. Moore, J. T. Royles, Mabel B. McIntyre, Wm. Gottstein, Fred H. Mason, Wm. Devere, and Geo. Hartig in re Alaska coal lands.

August 10, 1907, Seattle, Wash.:

Took affidavits of Spl. Agt. H. K. Love in re statements made to him by Wm. Devere, D. S. 306—George Hartig, D. S. 307—Oldham Gates, D. S. 422, and R. S. Cox, jr., D. S. 271, all in the Juneau, Alaska, land district. Made out and forwarded to G. L. O. report on Alaska investigation.

Lv. Seattle, Wn., 10.30 p. m. via N. P. R. R. (see T. R. 27146; fare \$5.60) en route to Portland, Or. To N. P. R. R., berth in sleeping car from Seattle, Wn., to Portland, Oregon, \$2.00.

August 11, 1907 (Sunday), Portland, Oregon:

Ar. Portland, Or., at 7.05 o'clock a. m. Fee to sleeping-car porter, \$.25; one street-car fare in Portland, Or., \$.05; transfer of baggage from depot to house, \$.25.

August 12, 1907, Portland, Or.:

Transmitted to H. K. Love, spl. agt. G. L. O., Seattle, Wash., list of applicants for Alaska coal lands residing in Seattle, Wash.

August 13, 1907, Portland, Or.:

Preparing list of names and addresses of Alaska coal-land applicants for transmission to G. L. O.

August 14, 1907, Portland, Oregon:

Preparing list of names and addresses of applicants for coal lands in Alaska for transmission to G. L. O.

August 15, 1907, Portland, Oregon:

Completed and mailed to G. L. O. list of names and addresses of Alaska coal-land applicants. Telegraphed G. L. O. for further work in Oregon.

August 16, 1907, Portland, Oregon:

Wrote General Land Office confirming telegram asking for work in Oregon.

August 17, 1907, Portland, Oregon:

To Wells Fargo Express Co., charges for transporting Underwood typewriter from Seattle, Wash., to Portland, Oregon, \$0.80; awaiting instructions from G. L. O. as to work in Oregon.

August 18, 1907, Portland, Or., Sunday.

August 19, 1907, Portland, Or.:

Special Inspector T. B. Neuhausen returned from eastern Oregon at 6 o'clock p. m., and will assign work to me to-morrow.

August 20, 1907, Portland, Oregon:

Reported in person to T. B. Neuhausen, Acting Chief Field Division No. 1, for duty. Instructed, in writing, to investigate validity of lieu land selections in Oregon. Instructed that I would communicate with Chief T. B. Neuhausen by mail only. Wrote Neuhausen in re trip to Lakeview, Oregon, on lieu land investigation.

August 21, 1907, Portland, Oregon:

On leave of absence. Received special delivery letter from Acting Chief Neuhausen revoking order to go to Lakeview, Oregon, in the matter of lieu land selections until further advised.

August 22, 1907, Portland, Ore.:

At U. S. land office gathering data relating to status of lieu land selections in the Portland, Oregon, land district. Wrote T. B. Neuhausen, Acting Chief Field Div. No.

1, inclosing list of lieu land selections for State of Oregon under investigation as to status. Special delivery stamp for said letter, .10. Wrote T. B. Neuhausen, Acting Chief Field Div. No. 1, in re necessity of using special delivery stamp on communications to him relating to official matters. Special delivery stamp for above letter, .10.

August 23, 1907, Portland, Oregon:

Transmitted, by special delivery, to T. B. Neuhausen, Acting Chief Field Division, Portland, Oregon. One special delivery stamp for above letter, .10. Completed and sent to Neuhausen data in re lieu land selections for Portland, Oregon, land district.

August 24, 1907, Portland, Oregon:

Preparing list of T. & S. and Hd. entries in La Grande, Oregon, land district for field examination, under instruction of T. B. Neuhausen, Acting Chief Field Div. No. 1.

August 25, 1907, Portland, Oregon, Sunday.

August 26, 1907, Portland, Oregon:

Wrote J. H. Alexander, Spl. Agt. Pendleton, Or., for information concerning La Grande, Or., L. D. Wrote G. L. O. for book T. R.'s copied affidvs., C. H. Doughten Schram, Lippy, and Sautter, Alaska lands.

August 27, 1907, Portland, Or.:

Made out and sent in supplemental report, with affidavits of C. H. Doughten John Schram, T. S. Lippy, and O. E. Sautter, in re Alaska coal-land locations, to G. L. O. Wrote G. L. O. in re unsigned report of Alaska coal-land investigation of Aug. 10, 1907.

To O. R. & N. Co., sleeping-car berth from Portland, Or., to La Grande, Ore., \$2.00 Lv. Portland, Or., 7.40 p. m. en route to La Grande, Or., fare (\$9.10) see T. R. 27147

August 28, 1907, La Grande, Oregon:

Ar. La Grande, Or., 8.15 a. m. Fee to Pullman porter, \$0.25. At U. S. Land Office getting status of following entries: —. Wrote T. B. Neuhausen, Acting Chief, Field Div. No. 1, in re complaint of Fred Wunder.

August 29, 1907, La Grande, Ore.:

Getting status of H. E. Wm. Riley, No. 5467; wrote T. B. Neuhausen, Acting Chief Field Division, in re said H. E. of Wm. Riley. Wrote clerk Grant County in re said H. E. Wm. Riley. Wrote U. S. Commissioner, Ukiah, Ore., in re unlawful inclosure of Fred. Martin in T. 4 S., R. 32 E. Wrote W. S. Lindsay, Pendleton, Ore., calling for relinquishment of H. E. (cash) No. 8058, La Grande, land dist. Wrote T. B. Neuhausen, Portland, Ore., in re list of investigations in La Grande land dist.

August 30, 1907, La Grande, Ore.

August 31, 1907, La Grande, Ore.

Daily reports, September, 1907.

[All signed "Horace Tillard Jones, Special Agent."]

September 1, 1907, La Grande, Ore., Sunday.

September 2, 1907, La Grande, Ore.:

Lv. La Grande, Or., 9.15 a. m., via O. R. & N. Co., Ar. Elgin, Or., 11.30 a. m.; fare no R. T., .65. Took affidavit of T. E. Parks in re H. E. 7654.

September 3d, 1907, Elgin, Ore.:

Lv. Elgin, Or., 3.45 p. m., via O. R. & N. Co.; fare, .65. Ar. La Grande 6.30 p. m. Lv. La Grande 9.30 p. m., via O. R. & N. Co.; fare, 1.55. Ar. Baker City 11 p. m.

September 4th, 1907, Baker City, Or.:

Lv. Baker City, Or., 8.30 a. m., via Sumpter Valley R. R. Ar. Salisbury, Or., 9 a. m.; fare (no R. T.), .50. Lv. Salisbury, Or., 9.15 a. m., via Sullivan's sta Ar. Unity, Or., 6 p. m.; fare (no R. T.), 2.00.

September 5th, 1907, Unity, Oregon:

Left Unity, Or., at 9.30 a. m., for above trip to said H. E., and returned at 2 p. m. Paid Fult Fleetwood for use of team for above trip, with driver, total distance about 16 miles, \$2.00. Lv. Unity 4 p. m.; ar. Hereford, Ore., 7 p. m.; distance miles. Paid H. Friedman, Baker City, Ore., for seat in wagon, Unity to Hereford, Ore., .75.

September 6, 1907, Hereford, Oregon.

September 7, 1907, Baker City, Ore.

September 8, 1907, Baker City, Ore.:

Lv. Baker City, Ore., 11 a. m., via O. R. & N. Co., fare, \$1.55; ar. La Grande, Ore., 1 p. m. Seat in pullman for above trip, 0.25. At La Grande land office copying portions of final proof in re T. & S. 5210 J. H. Parker and making supplemental report of work and expenses for August 28, 1907; the original report lost in re Transmitted said report to T. B. Neuhausen, Acting Chief, Field Div.

September 9, 1907, La Grande, Oregon:
 Wrote T. B. Neuhausen, Acting Chief, Field Division No. 1, in re daily reports and list of La Grande cases for investigation.
 September 10, 1907, La Grande, Ore.:
 Paid M. H. Kirtley, La Grande, Ore., for use of two horses and buggy, with driver, for said trip to H. E. 13803, \$4.50. Paid W. F. Alexander, Cove, Ore., for dinner for two horses, \$0.50. Paid S. G. Reese, Cove, Ore., for dinner for driver, \$0.35.
 September 11, 1907, La Grande, Or.
 September 12, 1907, Pendleton, Ore.
 September 13th, 1907, Walla Walla, Wn.
 September 14th, 1907, Walla Walla, Wn.
 September 15th, 1907, Walla Walla, Wn.:
 Took affidavit and relinquishment of Joseph W. Toner, H. E. 13695. Transmitted Toner relinquishment to La Grande land office. Interviewed John F. Mackin in re H. E. 9626. He refused to make written statement.
 September 16th, 1907, Walla Walla, Wash.
 September 17th, 1907, Walla Walla, Wash.
 September 18th, 1907, Walla Walla, Wash.:
 Lv. Walla Walla, Wash., 8.30 a. m., ar. Pendleton, Ore., 10.25 a. m., via O. R. & N. Co., fare, \$1.40. At county court house getting lists of lands assessed to M. T. Lynch, John Lynch, and estate of John Mackin to be used in report on homestead entries 9364, 9363, 9625, 9753, and 9626, La Grande series.
 Lv. Pendleton, Ore., 1.15 p. m., ar. Portland, Ore., 9.15 p. m., via O. R. & N. Co. See T. R. 27148 (fare, \$6.85). Cab fare at Walla Walla, Wash., from hotel to depot, .25. To O. R. & N. Co., seat in buffet car, Pendleton to Portland, Or., \$1.25. Transfer of baggage from depot to house, Portland, Or., .50—\$3.40.
 September 19th, 1907, Portland, Oregon:
 September 20, 1907, Portland, Oregon.
 September 21, 1907, Portland, Oregon.
 September 22, 1907, Portland, Ore., Sunday.
 September 23, 1907, Portland Oregon:
 Made letter report upon status of unfinished work in the La Grande, Oregon land district, to Acting Chief, Field Division No. 1. Made written application to Acting Chief, Field Division No. 1, for ten days leave of absence.
 September 24, 1907, Portland, Oregon:
 On annual leave of absence.
 September 25, 1907, Portland, Oregon:
 On annual leave of absence.
 September 26, 1907, Portland, Oregon:
 On annual leave of absence.
 September 27, 1907, Portland, Oregon:
 On annual leave of absence.
 September 28, 1907, Portland, Oregon:
 September 29, 1907, Portland, Oregon, Sunday.
 September 30, 1907, Portland, Oregon.

Daily reports, October, 1907.

[All signed "Horace Tillard Jones, special agent."]

October 1, 1907, Portland, Oregon:
 Searching for John Larson, Ole Elle, Conrad Elle, and L. M. Lee, all Siletz entry-men. Three street-car fares in Portland, Oregon, .15. Took affidavit of Ole Elle in re H. E. 14306 and Conrad Elle, in re H. E. 14308, both Portland, Ore., land district. Made out and sent in monthly expense account.
 October 2, 1907, Portland, Oregon.
 October 3, 1907, Portland, Ore.
 October 4, 1907, Portland, Ore.:
 Completed copy of abstract of work in the La Grande land district. Preparing copy of abstract of work in The Dalles land district, for T. B. Neuhausen, Acting Chief, Field Division No. 1.
 October 5, 1907, Portland, Ore.:
 Completed copy of abstract of work in The Dalles land district.
 October 6, 1907, Portland, Ore.:
 Lv. Portland, Oregon, 7.45 p. m. ar. Albany, Oregon, 11 p. m. via S. P. R. R., fare, \$2.45.
 October 7, 1907, Portland, Ore.
 October 8, 1907, Portland, Ore.

900 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

October 9, 1907, Portland, Ore.:
Arranging for bids on file case for Chief of Field Div. No. 1. Received instruction from Chief of Field Div. No. 1, to discontinue use of letter-press copy books.

October 10, 1907, Portland, Oregon:
Assisting L. R. Glavis, Chief of Field Div. No. 1, in rearrangement of card system for cases in The Dalles (Oregon) land district.

October 11, 1907, Portland, Ore.:
Assisting in rearrangement of card system of cases in The Dalles land district.

October 12, 1907, Portland, Ore.:
Assisting in rearrangement of card system of cases in The Dalles land district.

October 13, 1907, Portland, Ore.—Sunday.

October 14, 1907, Portland, Ore.:
Lv. Portland 8.30 a. m. ar. La Grande 8.45 p. m. via O. R. & N. Co., fare \$9.10, & T. R. 27149. Seat in buffet car from Portland to La Grande, \$1.50. Fee to buffet car porter, .25. Will be at La Grande on 16th and 17th.

October 15, 1907, La Grande, Elgin, & Wallowa, Ore.:
Lv. La Grande 10 a. m. ar. Elgin, Or.; 12.30 p. m., via O. R. & N. Co., fare \$0.60. Lv. Elgin, Or., 1.30 p. m., ar. Wallowa, Ore., 7.30 p. m.

October 16, 1907, Wallowa, Ore.:
Will be in La Grande the 18th or 19th.

October 17, 1907, Elgin, Oregon:
Feeding and stabling two horses, \$1.50. Team hire for two days, \$6.00.

October 18, 1907, Elgin & La Grande, Ore.:
Lv. Elgin, Ore., 3.45 p. m., ar. La Grande, Ore., 5.30 p. m. via O. R. & N. Co. fare .65. Will be in and about Pendleton, Oct. 20, 21-22, etc.

October 19, 1907, La Grande, Ore.:
Looked at county records in re H. E. 18629, C. H. Arthur.

October 20, 1907, La Grande—Pendleton, Ore.:
Waiting for delayed train due at 8.45 a. m. Lv. La Grande 3.30 p. m., ar. Pendleton 7.15 p. m. via O. R. & N. Co., fare, \$2.20. Seat in buffet car, .50. Address will be Pendleton, Or., 21-22-23 of October.

October 21, 1907, Pendleton, Ore.:
Conferring with Spl. Agt. Alexander in re H. E. 10114 M. O'Rourke, H. E. 12 J. G. Richardson, H. E. 5598, T. Williams, and other matters in La Grande district. Obtained relinquishment of H. E. 10665 of Theo. Van Puymhoch and transmit same to La Grande land office. Interviewed J. G. Richardson in re H. E. 126 P. O. address will be Pendleton until further notice.

October 22, 1907, Pendleton, Ore.

October 23, 1907, Pendleton—Cold Springs:
Lv. Pendleton, Or., 1 p. m.; drive to Cold Springs P. O., Ore. Interviewed W Claypool in re H. E. 12621.

October 24, 1907, Pendleton, Ore., South Cold Springs:
Paid Wm. Claypool, supper, bed, and breakfast for 2 horses, \$0.50.

October 25, 1907, Pendleton, Ore.

October 26, 1907, Pendleton—Portland, Ore.

October 27, 1907, Portland, Oregon—Sunday.

October 28, 1907, Portland, Oregon.

October 29, 1907, Portland, Oregon:
At U. S. land office looking up decisions in reentries of deceased homesteaders.

October 30, 1907, Portland, Ore.:
At office of clerk U. S. court, Portland, Ore., getting data relative to indictments in land fraud cases and convictions thereunder, from July, 1905, to July, 1907.

October 31, 1907, Portland, Oregon:
At office of clerk U. S. court, getting data relative to indictments in land fraud cases and convictions thereunder, from July, 1905, to July, 1907. Made out account October, 1907.

Daily reports, November, 1907.

[All signed "Horace Tillard Jones, special agent."]

Nov. 1, 1907, Portland, Ore.
Nov. 2, 1907, Portland, Oregon.
Nov. 3, 1907, Portland, Ore., Sunday.
Nov. 4, 1907, Portland—The Dalles, Ore.:
Lv. Portland 8.30 a. m. Ar. The Dalles, ar., 12.30 a. m., fare via O. R. & N. \$2.60. Seat in Pullman, .50. Will be at Shaniko, Ore. Nov. 5, 6, 7.

- Nov. 5, 1907, The Dalles—Shaniko, Oregon:
Paid Hudson Land Co. for blueprint, Tp. 3 S., 15 E., .50; Lv. The Dalles, 10.35 a. m.
Ar. Shaniko, 5.30 p. m., fare via O. R. & N. Co. (no. R. T.), 3.40. Interviewed
James Baxter in re his H. E. in Tp. 6 & 7 S., R. 18 E.
- Nov. 6, 1907, Shaniko & Bake Oven, Ore.
- Nov. 7, 1907, Bake Oven, Ore.:
Made field examination of H. E. 10348, C. H. Wagonblast; Al. Mosely; 10375, H. L.
Mulkins; 11145, E. S. Payn; 11057, E. Suckow; 11058, J. Suckow; 11059, F. J. Suckow;
11056, C. C. Suckow; J. Bilysee; 9054, Wm. Stewart; 10039, E. S. Emston; 10101,
B. Lawter. All "bad."
- Nov. 8, 1907, Bake Oven, Ore., Shaniko, Or.
- Nov. 9, 1907, Shaniko—The Dalles—Portland, Oregon.
Lv. Shaniko, Or., 7.15 a. m., ar. The Dalles 1.15 p. m., fare via O. R. & N., 3.40.
Took afdvt. T. W. Callreath, sr. in re his H. E. 8254 The Dalles series. Consulting
county records Wasco Co., and getting data at local office The Dalles, Or., in re home-
stead entries investigated Nov. 6-7 & 8. Lv. The Dalles 5 p. m., ar. Portland 8.20
p. m., via O. R. & N. Co., fare round trip, 4.00; seat in Pullman, The Dalles to Portland,
Ore., .50.
- Nov. 10, 1907, Portland, Ore., Sunday.
- Nov. 11, 1907, Portland, Ore.
- Nov. 12, 1907, Portland, Oregon.
- Nov. 13, 1907, Portland, Ore.
- Nov. 14, 1907, Portland, Or.
- Nov. 15, 1907, Portland, Or.:
Made typewritten copies of forms of affidavits in unlawful inclosure cases.
- Nov. 16, 1907, Portland, Ore.:
Made copies of reports of work done by me (under T. B. Neuhausen, acting chief,
and L. R. Glavis, Chief of Field Div. No. 1) in La Grande land district for use of
L. R. Glavis.
- Nov. 17, 1907, Portland, Ore.: Sunday.
- Nov. 18, 1907, Portland, The Dalles, Or.:
Lv. Portland, Or., 8.30 a. m., ar. The Dalles 11.45 a. m. via O. R. & N. Fare, see
round trip ticket purchased Nov. 9, 1907. Seat in Pullman car, Portland to The
Dalles, Ore., \$.50. At local office getting ownership of lands in Tps. 14 & 15 S., Rs. 17 &
18 E.
- Nov. 19, 1907, The Dalles, Dufur, Or.:
Nov. 20, 1907, Dufur, Or.
- Nov. 21, 1907, Dufur & Tygh Valley, Ore.:
Team hire, \$4.00. Ar. Tygh Valley 7 p. m.
- Nov. 22, 1907, Tygh Valley, Dufur, Or.:
Paid C. W. Wing for supper, bedding, & breakfast for two horses, \$1.50; paid Mrs.
C. W. Wing for supper, bed, and breakfast for driver, 1.00.
- Nov. 23, 1907, Dufur, Ore.:
To P. S. T. & T. Co., 1 phone message to U. S. L. O., The Dalles, from Dufur, Ore., \$.75;
paid S. I. Everatts, Dufur, Or., for team hire Nov. 20, 21, & 22, at \$4.00 a day, with
driver, & Nov. 23, \$3 a day without driver.
- Nov. 24, 1907, Dufur, The Dalles:
Lv. Dufur 7.30 a. m., ar. The Dalles 9.30 a. m.; fare via Great Southern R. R. (no
round trip), 1.00. At U. S. L. O. getting status of H. E. 10520 S. A. Scott and 7 others.
P. O. address, Hood River, Nov. 25, 26, & 27.
- November 25th, 1907, The Dalles, Portland:
Lv. The Dalles 5 p. m., ar. Portland, Ore., 8.30 p. m. via O. R. & N. Co.; fare, 2.60;
seat in buffet car from The Dalles to Portland, Ore., .50.
- Nov. 26, 1907, Portland, Ore.:
On leave of absence.
- Nov. 27, 1907, Portland, Ore.:
On leave of absence.
- Nov. 28, 1907, Portland, Oregon, Thanksgiving:
Conferring with L. R. Glavis, chief of field Div. No. 1 concerning work in The
Dalles land district.
- Nov. 29, 1907, Portland, Ore.
- Nov. 30, 1907, Portland, Ore.:
Made out monthly expense account for November, 1907.

Daily reports, December, 1907.

[All signed "Horace Tillard Jones, Special Agent."]

December 1st, 1907, Portland, Ore.: Sunday.
 December 2nd, 1907, Portland, Ore.
 December 3, 1907, Portland-Hood River, Ore.
 December 4th, 1907, Hood River, Ore.: P. O. address 5, 6, 7, & 8th will be "Mt. Hood Hotel, Hood River, Ore."
 December 5th, 1907, Hood River, Ore.:
 Lv. Hood River 2.30 p. m.; ar. Viento, Or., 3 p. m. via Or. & N. R. R.; fare (no R. T.) .20. Lv. Viento 9.20 p. m.; ar. Hood River 9.40 p. m. via Or. & N. Co.; fare, .20.
 December 5, 1907, Hood River-Viento, Or.:
 Lv. Hood River 2.30 p. m.; ar. Viento, Or., 3 p. m.; fare via O. R. & N. Co. (R. T.), .20. Lv. Viento 9.20 p. m.; ar. Hood River 9.40 p. m. via O. R. & N. Co. fare, .20.
 December 6th, 1907, Hood River-Mt. Hood, Ore.
 December 7th, 1907, Mt. Hood-Hood River, Ore.
 December 8th, 1907, Hood River, Ore.
 December 9th, 1907, Hood River-Grass Valley, Oregon.
 Lv. Hood River 9.50 a. m.; ar. Grass Valley, Or., 3 p. m. via O. R. & N. Co.; fare, 2.85.
 December 10th, 1907, Grass Valley, Ore.
 December 11th, 1907, Grass Valley, Ore.
 December 12th, 1907, Grass Valley, Ore.
 December 13th, 1907, Grass Valley & Moro, Ore.
 December 14th, 1907, Moro & The Dalles, Oregon.
 December 15th, 1907, The Dalles, Ore., Sunday.
 December 16th, 1907, The Dalles, Ore.:
 My address will be Dufur, Ore., until Dec. 19th.
 December 17th, 1907, Dufur, Ore.:
 Lv. Dufur, Or., 1 p. m. Made field examination of F. L. S. J. H. Johnston "ba returned to Dufur 4 p. m., team hire, \$2. Took afdvt. J. H. Johnston in re his entry.
 December 18th, 1907, Dufur-Kingsley.
 December 19th, 1907, Kingsley-Dufur:
 Team hire, \$9.25. My P. O. address for 20, 21, 22 will be Hood River.
 December 20th, 1907, Dufur-The Dalles-Hood River, Ore.
 December 21st, 1907, Hood River-Portland, Or.
 December 22, 1907, Portland, Oregon, Sunday.
 December 23, 1907, Portland, Ore.
 December 24, 1907, Portland, Oregon.
 December 25, 1907, Portland, Ore., Xmas, 1907.
 December 26, 1907, Portland, Oregon.
 December 27, 1907, Portland, Oregon.
 December 28, 1907, Portland, Ore.
 December 29, 1907, Portland-Boring, Or.
 December 30, 1907, Portland, Oregon.
 December 31, 1907, Portland, Oregon.

Daily reports, January, 1908.

[All signed "Horace Tillard Jones, special agent."]

January 1, 1908, Portland Ore.: Legal holiday.
 January 2, 1908, Portland-Salem, Ore.
 January 3rd, 1908, Portland, Oregon.
 January 4, 1908, Portland, Ore.
 January 5, 1908, Portland, Ore.: Sunday.
 January 6, 1908, Portland, Ore.
 January 7, 1908, Portland, Oregon.
 January 8, 1908, Portland, Oregon.
 January 9, 1908, Portland, Ore.
 January 10, 1908, Portland, Ore.
 Checking up, from office records of Chief of Field Div., notices of intention to proof, on various forms of entry, at respective land offices in Oregon. Took C. C. Snyder in re his H. E. 14335 Portland series.

January 11, 1908, Portland, Ore.
 January 12, 1908, Portland, Or. (?) Hood River, Or., Portland, Or.
 January 13, 1908, en route to Grants Pass, Grants Pass & Medford:
 Fee to Pullman porter, \$.25. Ar. Grants Pass 12.30 p. m. Lv. Grants Pass 12.35 p. m. Ar. Medford, Or., 1.45 p. m. via S. P. R. R., fare (no R. T.), \$1.00; Pullman seat from Grants Pass to Medford, \$.25. Interviewed A. S. Bliton, U. S. Commr. in re fees. Lv. Medford 5.40 p. m. Ar. Grants Pass 6.50 p. m. via S. P. R. R., fare, \$1.00.
 January 14, 1908, Grants Pass, Ore., Waldo, Ore. (1-16-08):
 Lv. Grants Pass 8 a. m., ar. Waldo, Ore., 4 p. m., en route to Deering, Ore.
 January 15, 1908, Waldo (1-16-08) & Deering, Ore.
 January 16, 1908, Waldo & Grants Pass, Ore. Grants Pass (Jan. 17, 08).
 January 17, 1908, Grants Pass, to Portland, Ore.:
 Lv. Grants Pass 10.55 a. m., ar. Portland, Or., 11.15 p. m. Under subpoena in case U. S. vs. W. W. Steiwer et al. Expenses paid by Department of Justice.
 January 18, 1908, Portland, Ore.:
 Under subpoena in case U. S. v. W. W. Steiwer et al.
 January 19, 1908, Portland, Ore.:
 Under subpoena in case U. S. v. W. W. Steiwer et al.
 January 20, 1908, Portland, Ore.:
 Under spa. in case U. S. vs. W. W. Steiwer et al.
 January 21, 1908, Portland, Ore.:
 Under spa. in U. S. vs. W. W. Steiwer et al. Received discharge from spa. at 3.30 p. m.
 January 22, 1908, Portland, Ore.
 January 23, 1908, Portland, Oregon:
 Assisting L. R. Glavis, Chief Field Div. No. 1, in arranging cases in The Dalles, Or., land district.
 January 24, 1908, Portland, Or.:
 Assisting L. R. Glavis in arranging files of cases in The Dalles, Ore., land district.
 Lv. Portland, Or., 11.45 p. m. en route to Seattle, Wn., fare round trip via N. P. R. R.; see T. R. 28712 (\$11.20). Sleeper fare from Portland to Seattle, \$2.00.
 January 25, 1908, Seattle, Wn.:
 Ar. Seattle 7.05 a. m. Fee to porter, \$.25. Took statements of T. F. Hallinan in re Roseburg, Oregon, land office. Lv. Seattle, Wn., 11 p. m. on return ticket, en route to Portland, Ore. Sleeper fare Seattle, Wn., to Portland, Ore., \$2.00.
 January 26, 1908, Portland, Ore., en route to Roseburg (Roseburg, Ore., 1, 28, 08):
 Ar. Portland, Or., 7.05 a. m. Fee to Pullman porter, \$.25. Conferring with L. R. Glavis, Chief Field Div., in re inspection of U. S. land office at Roseburg, Ore. Lv. Portland, Ore., 11.55 p. m. en route to Roseburg, Or. Round-trip fare via S. P. R. R., see T. R. 28713 (\$12.00). Sleeper from Portland to Roseburg, Or., \$2.00.
 January 27, 1908, Roseburg, Ore. (Roseburg, 1, 28, 08):
 Inspecting U. S. land office at Roseburg, Oregon.
 January 28, 1908, Roseburg, Ore. (1, 29, 08).
 January 29, 1908, Roseburg, Ore.:
 Inspecting U. S. land office, Roseburg, Ore.
 January 30, 1908, Roseburg, Ore.:
 Inspecting U. S. land office, Roseburg, Ore.
 January 31, 1908, Roseburg, Ore.

Daily reports, February, 1908.

[All signed "Horace Tillard Jones, special agent."]

Feb. 1st, 1908, Portland, Ore.:
 Making report on examination of U. S. land office, Roseburg, Ore.
 Feb. 2nd, 1908, Portland, Ore.:
 Making report on examination of Roseburg land office.
 Feb. 3rd, 1908, Portland, Ore.:
 Making report on examination of U. S. land office at Roseburg, Oregon.
 Feb. 4th, 1908, Portland, Ore.:
 Feb. 5th, 1908, Portland, Ore.:
 Feb. 6th, 1908, Portland, Ore.:
 Feb. 7th, 1908, Portland-The Dalles:
 Lv. Portland, Or., 8.30 a. m. via O. R. & N. Co., fare (did not expect to return), \$2.55. To O. R. & N. Co., seat in Pullman from Portland to The Dalles. Ar. The Dalles, Ore., 11.30 a. m., \$.50. At U. S. land office getting data for field trip. Paid Hudson Land Co., The Dalles, Ore., for 29 township blueprints, \$7.25.

Feb. 8th, 1908, The Dalles-Wasco, Ore.:
 Lv. The Dalles, Ore., 10.35 a. m., ar. Wasco, Ore., 2.30 p. m.; fare via O. R. & N. Co. (did not expect to return), 1.00. P. O. address will be Wasco until further notice.
 Feb. 9th, 1908, Wasco & Rufus, Ore.
 Feb. 10th, 1908, Rufus, Moro, Ore.
 Feb. 11th, 1908, Moro, Ore.:
 My address for Feb. 12-13-14 & 15 will be Moro, Ore.
 Feb. 12th, 1908, vicinity of Moro, Ore.
 Feb. 13th, 1908, Monkland, Ore.:
 Address Grass Valley, Ore., Feb. 16th to 19th, 1908.
 Feb. 14th, 1908, Monkland, Ore.
 Feb. 15th, 1908, Monkland, Ore.
 Feb. 16th, 1908, Moro to Grass Valley, Ore.
 Feb. 17th, 1908, Grass Valley, Ore.
 Feb. 18th, 1908, Grass Valley, Ore.:
 Will be at Kent, Ore., Feb. 21-22-23.
 Feb. 19th, 1908, Grass Valley, Ore.
 Feb. 20th, 1908, Grass Valley, Ore.
 Feb. 21st, 1908, Grass Valley, Ore.: 2-23-08.
 Feb. 22nd, 1908, Grass Valley, Ore.: 2-23-09.
 Feb. 23rd, 1908, Grass Valley-(Kent, Or.: 2-25-08).
 Feb. 24th, 1908, Kent, Ore.: 2-25-08.
 Feb. 25th, 1908, Kent, Ore.: 2-26-08.
 Address for Feb. 28-29-Mar. 1, Shaniko, Ore.
 Feb. 26th, 1908, Kent, Ore.: 2-29.
 Feb. 27th, 1908, Kent, Ore.
 Feb. 28th, 1908, Kent, Ore.
 Feb. 29th, 1908, Kent, Ore.

Daily Reports, March, 1908.

[All signed "Horace Tillard Jones, special agent."]

March 1, 1908. The Dalles, Ore. Portland, Ore.
 Lv. The Dalles, Or., 1.40 p. m., ar. Portland, Or., 5.15 p. m., via O. R. & N. Co. fare \$2.55. Conferring with Chief First Field Div. in re recent investigations entries, made by me in February, 1908, in The Dalles, Or., land district. Transportation of baggage from depot to house, Portland, Ore., .50.
 March 2, 1908, Portland, Ore.
 Lv. Portland, Or., 8.15 p. m., en route to Spokane, Wash., via O. R. & N. Co. (R. T.). Fare, T. R. 28714, \$11.20. Sleeper fare, Portland, Or., to Spokane, Wash. \$2.50.
 March 3, 1908, en route to Spokane, Wn.
 Ar. Spokane, Wash., 12.15 p. m. Fee to porter, 25; assisting L. R. Glavis, Ch First Field Div., on Alaska Coal Land cases.
 March 4, 1908, Spokane, Wash., to Wallace, Ida.
 Lv. Spokane, Wn., 9 a. m.; ar. Harrison, Ida., 11.45 a. m.; fare, v Coeur de Alene & Spokane Ry. Co., round trip, \$2.50. Parlor-car fare, from Spokane Wash., to Coeur de Alene, Ida., .25. Lv. Harrison, Ida., 12.15 p. m.; ar. Walla Ida., 2.30 p. m., via O. R. & N. Co., fare (no R. T.), \$1.50. Interviewed F. F. Johns and O. D. Jones, in re Alaska Coal Land cases. Paid Ethel A. Wragg, Wallace, Id for typewritten copies of statements in re Alaska Coal Fields, 12 pages, @ 50 cts., \$6.
 March 5, 1908, en route Wallace, Ida., to Spokane, Wash., to Seattle, Wash.
 Took advt. H. White & F. C. Moore in re Alaska Coal Land cases. Lv. Walla Ida., 12.15, p. m.; ar. Harrison, Ida., 2.30 p. m., via O. R. & N. Co.; fare (no R. T.) \$1.50. Lv. Harrison, Ida., 2.35 p. m.; ar. Spokane, Wash., 5 p. m., via Coeur de Alene & Spokane Ry. Co., on return ticket. Seat in parlor car, from Coeur de Alene Ida., to Spokane, Wash., .25. Lv. Spokane, Wn., 5.15 p. m., en route to Seattle Wash., via Gt. Nor. R. R.; fare paid by Chf. Field Div. L. R. Glavis on his transportation request. Berth in sleeper from Spokane to Seattle, Wn., \$2.50.
 March 6, 1908, en route to Seattle, Wash.; en route to Portland, Ore.
 Ar. Seattle, Wash., 7 a. m. Fee to Pullman porter, \$.25. Interviewed M. C. Moor C. Cunningham & assisted at taking affidavit of C. Cunningham, in re Alaska Coal Land cases. Lv. Seattle, Wn., 10.20 p. m., en route to Portland, Or., via N. P. R. Fare, see T. R. 28715 (\$11.20), self & L. R. Glavis. Berths in sleeper from Seattle Wn., to Portland, Or., \$2.00.
 March 7, 1908, Seattle, Wash., to Portland, Oregon.
 March 8, 1908, Portland, Oregon.

March 9, 1908, Portland, Oregon.
 March 10, 1908, Portland, Oregon.
 March 11, 1908, Portland, Oregon.
 March 12, 1908, Portland, Ore.
 March 13, 1908, Portland, Or.
 March 14, 1908, Portland, Oregon.
 March 15, 1908, Portland, Ore.
 Sunday.
 March 16, 1908, Portland, Or.
 March 17, 1908, Portland, Ore.
 March 18, 1908, Portland, Or.
 March 19, 1908, Portland, Ore.
 March 20, 1908, Portland, Ore.
 March 21, 1908, Portland, Oregon.
 March 22, 1908, Portland, Ore.
 March 23d, 1908, Portland, Oregon.
 March 24th, 1908, Portland, Ore.:
 Wrote P. M. at Grass Valley, Or., in re service of spa. on Peter Peters. Wrote up and transmitted to defendant notice of motion to take oral deposition in case U. S. vs. John W. Musgrove. Checking up on service of spa. and arranging papers in hearings to be attended to by self, in April, 1908. Two registry stamps on letters to J. W. Musgrove, .16.
 March 25th, 1908, Portland, Ore.
 March 26th, 1908, Portland, Or.
 March 27th, 1908, Portland, Or.:
 Assisting L. R. Glavis in preparing records and papers in Umatilla cases for submission to U. S. attorney for Oregon. Worked on said cases at night until 10.30 p. m.
 March 28th, 1908, Portland, Ore.:
 Assisting Chief of First Field Div. in submitting records in Umatilla, Oregon, case to U. S. atty. for presentation to grand jury. Wrote U. S. postmasters at Olene and Lexington, Ore., respectively, in re service of subpoenas in pending hearings.
 March 29, 1908, Portland, Ore. Sunday.
 March 30, 1908, Portland, Ore.
 March 31, 1908, Portland, Ore.

Daily reports, April, 1908.

[All signed "Horace Tillard Jones, special agent."]

April 1, 1908, Portland to Condon, Ore.:
 Lv. Portland, Ore., 7.15 a. m., ar. Condon, Ore., 3 p. m., via O. R. & N. Co. (No. R T.) (fare, \$6.00), T. R. 28716.
 April 2nd, 1908, Condon, Ore.:
 Will be at Condon until Apr. 4. On Apr. 5, 6, 7, 8 address will be Heppener, Ore., c/o general delivery.
 April 3rd, 1908, Condon, Ore.:
 Paid U. S. P. M. at Condon, Ore., for personal service of spa. on O. O. Campbell and J. B. White, respectively, in case of U. S. vs. C. S. Palmer, \$2.00. Paid U. S. P. M., The Dalles, Ore., for personal service of spa. on Edward F. Sharp in case of U. S. v. G. T. Parr, \$1.00. Conducting hearing in case of U. S. v. J. A. Ingle before U. S. commr. at Condon, Oregon.
 April 4, 1908, Condon, Ore.:
 Paid Western Union Telegraph Co. for message to receiver land office, The Dalles, \$1.40. Paid W. U. T. Co. for message to U. S. commr. at Heppener, Ore., .40. Paid W. U. T. Co. for message from U. S. commr. at Heppener, Ore., .20. Conducting hearing before U. S. commr. at Condon, Ore., in case of U. S. v. L. C. Bowman, H. E. 8978, from 10 a. m. to 9 p. m. Will be at Heppener, Ore., April 6, 7, & 8; at Moro, Ore., 10 & 11.
 April 5, 1908, Condon, Ore. Sunday:
 Estimating cost of testimony and witness fees in case of U. S. vs. L. C. Bowman (nee Berry), tried on 4th inst.
 April 6, 1908, Condon, Ore., to Heppener, Ore.:
 Lv. Condon, Or., 7.45 a. m., ar. Heppener, Or., 4.15 p. m. via O. R. & N. Co.; fare (no R. T.), \$3.45. Paid U. S. postmaster at Clem, Or., for making personal service of spa. on C. Wilkins & W. S. Jost in case of U. S. vs. G. C. Leonard, 2.00. Made personal service of spa. on J. C. Emrick, at Arlington, Ore., in U. S. v. G. C. Leonard. Conducting hearing before U. S. com. at Heppener, Ore., in case of U. S. v. J. W. Musgrave, from 4.20 to 6.30 p. m.

April 7, 1908, Heppener, Ore.:

Completed hearing in case of U. S. *v.* J. W. Musgrave at 12.30 p. m. Conducted hearing in U. S. *vs.* Edward Ball from 1.30 p. m. to 5.30 p. m. and completed same.

April 8, 1908, Heppener, Ore.:

Conducted hearing in case of U. S. *vs.* H. H. Gove before U. S. commr. at Heppener, Oregon, begun at 10 a. m. and completed at 6 p. m. Will be at Moro, Or., Apr. 10 & 11, at The Dalles April 12 and 13, and at Portland April 13 at about 5 or 8 o'clock p. m.

April 9, 1908, Heppener, Or., to Moro, Or.:

Lv. Heppener 7.45 a. m., ar. Moro, Or., 2.25 p. m. via O. R. & N. Ry.; fare, \$3.75. Conferring with county clerk at Moro, Or., in re hearings to be held before him on 10 & 11 instants. Paid Pacific States Telephone & Telegraph Co. for phone message to U. S. land office at The Dalles, Or., .45. Will be at The Dalles, Or., on Sunday, Apr. 12 & 13.

April 10, 1908, Moro, Ore.:

Attending hearing in case of U. S. *v.* James H. Zumwalt. Paid Mrs. Kate Adlard, Ajax, Or., for make personal service of subpoena, 1.00. Paid Pacific States Tel. & Tel. Co. for phone message to U. S. marshal at Portland, Ore., .50.

April 11th, 1908, Moro, Oregon:

Conducting hearing in case of U. S. *v.* W. W. Hawley, H. E. 7096. Begun at 10 a. m. & completed at 9 p. m.

April 12th, 1908, Moro, Ore.:

Lv. Moro, Or., 9.10 a. m., ar. The Dalles, Or., 1 p. m.; fare via O. R. & N. Co., 1.70. Consulting with contest clerk at The Dalles land office concerning hearing in U. S. *vs.* E. F. Sharp set for 13th inst. Will be in Portland at about 8.40 p. m., April 13th 1908.

April 13th, 1908, The Dalles, Oregon:

Conducting hearing in case of U. S. *vs.* E. F. Sharp. Lv. The Dalles, Or., at 5.30 p. m., ar. Portland, Or., 8.50 p. m., via O. R. & N. Co.; round trip fare (return ticket turned over to H. F. Higby, Spl. Agt.), \$4.00. Seat in buffet car, The Dalles, Or., to Portland, Or., .50. Telephone message to L. R. Glavis, Chief First Field Div., via Pacific States Tel. & Tel. Co., .45.

April 14th, 1908, Portland, Ore.:

Conferring with Chief Field Div. in re hearings in The Dalles, Or., land district Looking up statutes of Oregon under which fees in hearings are paid.

April 15th, 1908, Portland, Ore.:

Wrote H. S. McDanel in re payment of fees in land hearings. Turned over balance of hearings set for April in The Dalles, Or., land district to H. F. Higby, Spl. Agt. G. L. O. Lv. Portland, Or., 11.45 p. m., en route to Seattle, Wash., via N. P. R. R. berth, 2.00. Fare, T. R. 28717, \$5.60.

April 16th, 1908, Seattle, Wash.:

Ar. Seattle, Wash., 7.05 a. m. Fee to Pullman porter, .25. Street-car fare, dep. to hotel at Seattle, .05. Paid U. S. P. M. at Clem. Or. for personal service of sp. c. James Larch & C. A. Danneman in U. S. *vs.* L. C. Berry, 2.00. Interviewed H. Singleton in re "Hunt Group" of Alaska coal entries. Interviewed J. B. McDougall in re his D. S. #131. Called on James & John Campbell and E. C. Burke in re Alaska coal lands, but could not find them. Wrote L. R. Glavis inclosing list of California & Oregon claimants for Alaska coal lands. Wrote down, in form of certificate, res. of interview with J. B. MacDougall.

April 17th, 1908, Seattle, Wash.:

Took advt. F. R. Singleton in re Alaska Petroleum & Coal Co. Had typewritten certified copies made of article concerning said co. Paid Katharine Dalton for copies & certificate, \$3.00. Two street car fares in Seattle, Wash., .10.

April 18th, 1908, Seattle, Wash.:

Took affidavits of James & John Campbell, Udo Hesse, and E. J. Rathbone in re Alaska coal entries. Two street car fares in Seattle, .10. Called on M. A. Green, F. Munday, Mrs. J. M. Frink, and M. F. Wight in re Alaska coal entries, but parties were not in.

April 19th, 1908, Seattle, Wash. Sunday.

April 20th, 1908, Seattle, Wash.:

Took affidavits of C. F. Munday, J. L. McPherson, J. M. Frink, C. W. Davis, M. F. Wight in re Alaska coal land interests.

April 21st, 1908, Seattle, Wash.:

Conferring with U. S. attorney in re coal filings made in interest of Christopher Simmonds, et al. Interviewed (with L. R. Glavis) H. R. Harriman and Clark in re Alaska Petroleum and Coal Co.

April 22nd, 1908, Seattle, Wash.:

Took advts. of J. L. Moseley & C. J. Munger, and interviewed J. M. Frink, in re Alaska Petroleum & Coal Co. Submitted affidavits with letter of transmittal and

conference relating to same with E. E. Todd, U. S. attorney at Seattle, Wash., in re criminal prosecution of C. Christopher and others for frauds in Alaska coal lands. Two street-car fares in Seattle, \$0.10.

April 23rd, 1908, Seattle, Wash.:

Eight street-car fares in Seattle, Wash., \$0.40. Telegram to United States postmaster, North Yakima, Wn., \$0.25. Telegram from United States postmaster, North Yakima, Wn., \$0.20. Interviewed J. R. Young & E. C. Burke & took afdvt. James & John Campbell, interviewed Miss Ada McCarthy, looked through papers in seven suits, all in relation to Alaska Petroleum & Coal Co. Interviewed Mrs. R. G. Bowman, formerly Miss Irene Kennedy, in re A. P. & C. Co. Spokane, Wash., c/o Pennington Hotel, will be address for week following.

April 24th, 1908, Seattle, Wash., North Yakima, Wash.:

Bus hire from hotel to depot, at Seattle, self & baggage, \$0.50. Lv. Seattle, Wn., 8.15 a. m., ar. North Yakima, Wn., 2.45 p. m. Seat in Pullman from Auburn, Wn., to North Yakima, Wn., \$0.75. Lv. North Yakima, Wn., 10.05 p. m. en route to Spokane, Wn., berth in sleeper, \$2.00.

April 25th, 1908, en route to Spokane, Wash.:

Ar. Spokane, Wash., 8.30 a. m. Fee to porter, \$0.25. Baggage from depot to hotel, \$0.25. Took afdvt. G. W. Boyd & S. J. Martin and interviewed A. Anderson, F. Jacobs, & K. Tethron in re coal claims in Alaska. Getting street addresses of thirty-five coal-land claimants living in Spokane, Wash.

April 26, 1908, Spokane, Wash. Sunday:

Special Agent Stoner and self interviewed G. H. Collin in re his coal claim in Alaska. Wrote out and certified to statements made by him. Took afdvt. of F. Jacobs and A. Anderson in re their coal claims in Alaska. Telegram to A. Kennedy at Seattle, Wash., \$0.20.

April 27, 1908, Spokane, Wash.:

Interviewed (and certified as to result) J. E. Griffith. Took afdvt. of G. H. Collin, G. H. Muller, and R. E. M. Strickland; called on A. J. Moore, W. L. Dunn, A. J., C. D., and J. E. Oehler; none at home. Interviewed M. Wolferman and wrote out statement, which he will sign to-morrow. All in relation to coal claims in Alaska. Six street car fares in Spokane, Wash., \$0.30.

April 28, 1908, Spokane, Wash.:

Five street-car fares in Spokane, Wash., \$0.25. Took afdvt. of M. Wolferman, G. Wolferman, E. J. Bing, L. Peterson, C. A. Luding, R. Brown, and W. L. Dunn. Interviewed F. Spangler and A. J. Oehler. Certified with Spl. Agt. S. N. Stoner as to interview with R. Brown and W. L. Dunn as to numerous parties located by them. All in relation to coal land in Alaska. Telegram to postmaster at Roseland, B. C., \$0.80.

April 29, 1908, Spokane, Wash.:

Assisted Spl. Agt. S. N. Stoner in taking afdvt. F. A. Evans. Took afdvt. A. J. Oehler in re his own and C. J. and J. E. Oehler's coal lands in Alaska. Consulted with U. S. Atty. at Spokane, Wash., in re criminal prosecution of C. H. Doughten et al. for coal-land frauds in Alaska. Two street-car fares in Spokane, Wash., \$0.10. Bus hire from hotel to O. R. & N. depot in Spokane, Wash., \$0.50. Berth in Pullman from Spokane, Wash., to Portland, Oreg., \$2.50. Lv. Spokane, Wash., 4 p. m., en route to Portland, Oreg., T. R. 28719 (\$22.40). Spl. Agt. S. N. Stoner traveling on said T. R. 28719 with me.

April 30, 1908, en route to Portland, Or.:

Ar. Portland 8 a. m. Fee to Pullman porter, \$0.25. Conferring with Chief 1st Field Div. on Alaska cases. Made out monthly expense account for April. Arranging with atty. for defense for taking of testimony of J. H. Lutz in U. S. vs. R. E. Collins.

Daily reports, May, 1908.

[All signed "Horace Tillard Jones, special agent."]

May 1st, 1908, Portland, Ore.:

Attended taking of testimony of J. H. Lutz in hearing of U. S. vs. R. E. Collins.

May 2, 1908, Portland, Oregon:

Made typewritten copies of afdvts. of H. T. Jones, S. N. Stoner, M. J. Kalez, W. F. Boettcher, A. J. Oehler, M. L. Masterson, A. B. Simmonds and list of 93 names, all in re Alaska coal lands. Worked on above matters until 9 o'clock p. m.

May 3, 1908, Portland, Oregon.

May 4, 1908, Portland, Ore., to Aberdeen, Washington:

Lv. Portland, Or., 8.30 a. m. via N. P. R. R., round trip fare, on T. R. 28720, \$3.90, ar. Aberdeen, Wash., 2.30 p. m. Seat in parlor car from Portland, Or., to Centralia, Wash., .50.

May 5, 1908, Aberdeen, Wash., to Portland, Ore.:

Lv. Aberdeen, Wash., 8.45 a. m. on return ticket, via N. P. R. R., ar. Portland, Or. 4.15 p. m. Seat in parlor car from Aberdeen, Wash., to Gates, Wash., .25; seat in parlor car from Centralia, Wash., to Portland, Or., .50. Conferring with L. R. Glavin, Chief First Field Div. on result of interview with J. C. Hogan, of Aberdeen, Wash. Assisting Special Agent C. O. Pollard with account of appropriations for hearings in land entries. Fee to car porter from Centralia, Wash., to Portland, Ore., .25.

May 6, 1908, Portland, Ore.:

Instructing Special Agent H. R. Barton in re Siletz homestead hearings. Wrote G. L. O. in re suspended item of \$7.25 in February account.

May 7, 1908, Portland, Or.:

Arranging affidavits taken in Alaska coal cases for filing.

May 8, 1908, Portland, Ore.:

Arranging affidavits taken in Alaska coal cases for filing.

May 9, 1908, Portland, Ore.:

Setting hearings and estimating expenses in HE. 14149 A. E. Crouch, 14200 E. Taylor, 10582 W. Jorgenson, 10173 J. A. Phelps, all in Roseburg, Ore., land district.

May 10, 1908, Portland, Oregon, Sunday:

Set hearings & estimated expenses in re U. E. 599 A. B. C. Eggerth, U. E. 296 H. M. La Dow, U. E. 610 A. Gard, U. E. 691 L. McDonald, U. E. 717 E. Wright, T. & S. 5210 J. H. Parker, all in La Grande, Ore., land district. HE. 2321 T. R. Norris, Lakeview, Or., land district. HE. 10520 S. A. Scott, HE. 9686 J. W. Dixon, HE. 13987 J. E. Colvin, all in The Dalles, Or., land district.

May 11, 1908, Portland, Ore.:

Setting dates for hearings and estimating expenses of same in re HE8922, B. E. Selleck-9499, D. Sargent-11684, H. A. Wheeler-10632, A. A. Black-T&S 8227, A. W. Parrish, all in Roseburg, Ore., land district. Made index cards for two hundred cases to be transmitted to G. L. O. Worked until 10 o'clock p. m.

May 12, 1908, Portland, Ore.:

Assisting chief Field Division No. 1 in preparing papers for transmittal to G. L. O. Conferring with U. S. attorney for Oregon on Umatilla cases.

May 13, 1908, Portland, Ore.:

Wrote letter for chief field div. to H. R. Barton, spl. agt. G. L. O., in re Umatilla cases. Assisting chief field div. in transmittal of certain records to G. L. O. Arranging original files of Juneau, Alaska, land office in re Alaska coal cases according to their respective groups. Worked until 10 p. m.

May 14, 1908, Portland, Ore.:

Typewriting data for abstract of lands in Portland and Roseburg land districts subject to suits to set aside patent. Arranging Alaska coal land filing papers according to the respective groups to which they belong. Worked until 10.30 o'clock p. m.

May 15, 1908, Portland, Oregon:

Typewriting abstracts to lands in Portland and Roseburg, Oregon, land districts for which suit to set aside patent is to be instituted. Lv. Portland, Or., 11.45 p. m. en route to Seattle, Wash., via N. P. R. R., TR. 33211 (\$11.20) round trip ticket. Berth in sleeper, Portland, Or., to Seattle, Wn., \$2.00.

May 16, 1908, Seattle, Wash.:

Ar. Seattle, Wn. 7.30 a. m. Fee to porter, \$0.25. Conferring with U. S. Attorney for Washington, in re Christopher-Simmonds, Alaska land frauds. Interviewed E. H. Kohlhaase in re alleged frauds in Alaska. Telephone message to J. C. Hogan at Aberdeen, Wn., from Seattle, Wn., \$0.80; street-car fare in Seattle, Wn., \$0.15.

May 17, 1908, Seattle, Wash.:

Conferring with U. S. Attorney at Seattle, Wash., in re Alaska cases. Street-car fares in Seattle, Wn., \$0.10. Lv. Seattle, Wash., 10.20 p. m. via N. P. R. R. on return ticket. Berth in sleeper from Seattle, Wn., to Portland, Or., \$2.00.

May 18, 1908, Portland, Or.:

Copying abstracts of lands on which suit to cancel patent is to be brought. Copying list of taxes on said lands, from 1901 to 1907. Worked until 10 p. m.

May 19, 1908, Portland, Or.:

Acknowledged receipt of copies of letters.

May 20, 1908, Portland, Or.:

Lv. Portland, Or., 2 p. m.; ar. Oregon City, Or., 2.40 p. m. via O. W. P. & Ry. Co. fare, round trip, \$0.45. Lv. Oregon City 3.08 p. m.; ar. Portland, Or., 3.48 p. m., on return ticket.

May 21, 1908, Portland, Ore.:

Lv. Portland, Ore., 8.15 a. m.; ar. Lebanon, Ore., 2.35 p. m. via S. P. R. R., per T. R. 33212; fare, round trip (\$5.50). Seat in Pullman car from Portland, Ore. to Albany, Ore., .50.

May 22, 1908, Lebanon, Ore.:
Lv. Lebanon, Ore., 7.30 a. m.; ar. Foster 12 m.
May 23, 1908, Foster, Ore.:
Made field examination of homestead entries.
May 24, 1908, Foster, Ore.:
Paid Mrs. S. Thomas, Foster, Ore., for feed for horses, 4.50; to A. J. Nicholls, Foster, Ore., services as guide, 9.00; to F. W. Seeck, Lebanon, Ore., for team hire, 9.00; to Pacific States Telephone and Telegraph Co., 'phone message to L. R. Glavis, at Portland, Ore., .50; to P. S. T. & T. Co., 'phone message to A. J. Nicholls, Foster, Ore., .15. Lv. Foster, Ore., 2 p. m.; ar. Lebanon, Ore., 5 p. m.
May 25, 1908, Lebanon, Ore.:
Lv. Lebanon, Ore., 6.45 a. m.; ar. Portland, Ore., 5.30 p. m. via S. P. R. R.; fare, see return ticket on TR 33212. Stopped off at Albany, Oregon.
May 26, 1908, Portland, Ore.:
Conferring with chief field div. No. 1. Wrote report on said fraud cases to chief field div. No. 1.
May 27, 1908, Portland, Ore., to Moclips, Washington:
Lv. Portland, Ore., 8.30 a. m., ar. Moclips, Wash., 5 p. m., via N. P. R. R. See T. R. 33213 for round-trip ticket (fare \$10.80). Seat in parlor car from Portland, Ore., to Centralia, Wash., .50; seat in parlor car from Gate, Washington, to Aberdeen, Wash., .25.
May 28, 1908, Moclips, Wash., Portland, Ore.:
Lv. Moclips, Wash., 6.55 a. m., ar. Portland, Ore., 4.15 p. m. via N. P. R. R., on return ticket per T. R. 33213. Seat in parlor car from Aberdeen, Wash., to Gate, Wash., .25.
May 29, 1908, Portland, Oregon:
Wrote J. Gavin, The Dalles, Or., acknowledging service of notice of appeal in case of U. S. vs. H. H. Gove, The Dalles land district.
May 30, 1908, Portland, Oregon, Decoration Day.
May 31, 1908, Portland, Oregon, Sunday.

Daily reports, June, 1908.

[All signed "Horace Tillard Jones, special agent."]

June 1st, 1908, Portland, Ore.:
Conferring with U. S. attorney for Oregon regarding indictments to be brought in cases of Claude Rigdon et al. Under spa. to appear before Oregon grand jury on 4th inst.
June 2, 1908, Portland, Or.:
Conferring with U. S. attorney for Oregon regarding indictments to be brought in cases of James H. Parker et al. Under spa. to appear before grand jury on 4th inst.
June 3, 1908, Portland, Ore.:
Conferring with U. S. attorney in re cases to be presented before grand jury. Under spa. to appear before grand jury on 4th inst.
June 4, 1908, Portland, Ore.:
At U. S. land office getting data in regard to disbarment proceedings against A. W. Lafferty on new matters. Under spa. to appear before grand jury. Proceedings before grand jury postponed to June 8th, 1908.
June 5, 1908, Portland, Or.:
At U. S. land office getting additional evidence against J. W. Draper for supplemental charges in re disbarment proceedings. Under spa. to appear before grand jury.
June 6, 1908, Portland, Ore.:
Took affidavit of W. H. Bradford & George Finley, of Portland, Ore., in re J. W. Draper. Interviewed J. M. Gearin, Portland, Or., in re said Draper. Made letter report to G. L. O. in re supplemental charges against J. W. Draper. Under spa. to appear before grand jury.
June 7, 1908, Portland, Ore.—Sunday.
June 8th, 1908, Portland, Ore.:
Wrote R. & R. Roseburg, Or., in re T. & S. applications of Louis Steinbach. Appeared as witness before grand jury in U. S. vs. Dick Reckmann for fencing Govt. land in Tp. 3 S., R. 15 E., U. M., The Dalles land dist.
June 9th, 1908, Portland, Ore.:
Investigating writing of anonymous letter to Wm. F. Lewis, Panther, Ore., in re his H. E. Interviewed W. B. Stembler, H. J. Morrison, & A. W. Maloney in re said letter.

June 10th, 1908, Portland, Ore.:

Interviewed C. R. Hotchkiss, W. F. Stewart, and J. E. Hedges, all of Portland, Ore., in re A. W. Long, clerk of The Dalles, Ore., land office. Took afdvt. of said Hotchkiss and Stewart in re same. At U. S. attorney's office to assist in presenting cases of C. Rigdon & J. H. Parker, for perjury, to grand jury.

June 11th, 1908, Portland, Ore.:

Took afdvt. J. E. Hedges, of Portland, Ore., in re clerk A. W. Long of The Dalles, Ore., land office. Took afdvt. of S. A. D. Puter and interviewed H. G. McKinley in re fraudulent T. & S. & H. E. of Robert Simpson et al., Portland & Roseburg, Or., land districts.

June 12th, 1908, Portland, Ore.:

Interviewed F. Haines, Al. Goetjen, C. McCutcheon, J. F. Clark, & E. A. Hoskinson, in re perjury case vs. C. Rigdon, as witnesses before grand jury. Interviewed F. Wunder & R. Dieckmann in re perjury case vs. J. H. Parker, as witnesses before grand jury.

June 13th, 1908, Portland to Roseburg, Ore.:

Lv. Portland, Or., 1.30 a. m.; ar. Roseburg, Or., 9 a. m. Fee to Pullman porter, \$.25; via S. P. R. R. (fare \$12.00 for self & spl. agt. C. McGuire), T. R. 33214. Berth in sleeper from Portland, Or., to Roseburg, Or., \$.20. Interviewed S. W. Turnell, Roseburg, Or., in re his T. S. 9559. Interviewed M. R. Parks, Roseburg, Or., in re alleged frauds in Tp. 27 S., R. 2 W. Getting status of entries in Roseburg, Or., land district for field investigation. Send mail to Roseburg, Or., until further notice.

June 14th, 1908, Roseburg, Or.:

At U. S. land office getting status of entries for field investigation.

June 15th, 1908, Roseburg, Riddle, Or.:

Will be at Riddle, Or., June 16, 17, 18, 19.

June 16th, 1908, Riddle, Perdue, Or.:

Lv. Riddle 7 a. m.; ar. Perdue 12 m. Fare (No. R. T.) via Riddle & Purdue, stage line, Riddle, Or., \$1.50.

June 17th, 1908, Perdue, Or., Tiller, Or.:

Next P. O. address will be Roseburg, Or.

June 18th, 1908, Tiller, Or.:

Assisted Spl. Agt. McGuire in examining into bona fides of application of F. L. George for survey of sec. 35, Tp. 29 S., R. 1 W. Took afdvt. of W. P. Graham and interviewed E. Putnam and W. A. Bullock, all of Tiller, Or., in relation thereto. Send mail to Roseburg, Ore.

June 19th, 1908, Tiller, Riddle, Roseburg, Oregon:

Walked from Tiller, Or., to Perdue, Or. Paid Drew & Perdue stage line for transporting baggage from Tiller, Or., to Perdue, Or., \$.25. Lv. Riddle, Or., 10.04 p. m.; ar. Roseburg, Or., 11.20 p. m. via S. P. R. R.; fare, \$.90.

June 20th, 1908, Roseburg, Ore.:

At county court-house searching records for conveyances & assessments of land-mentioned in letter "P" G. R. 172502 et al. to L. R. Glavis, dated Apr. 6, 1908, and for conveyances to Gardiner Mill Co.

June 21st, 1908, Roseburg, Or.

June 22, 1908, Roseburg—Myrtle Creek—Roseburg:

Lv. Roseburg 9 a. m., ar. Myrtle Creek 10 a. m. via S. P. R. R., fare .70. Bus fare, round trip, .50. Lv. Myrtle Creek 10 p. m., ar. Roseburg 11 a. m. via S. P. R. R., fare (no R. T.) .70. Seat in Pullman car from Myrtle Creek, Or., to Roseburg, Or., .25. Will be at Roseburg, June 24; Oakland, 25; Eugene, 26; Portland, 27.

June 23, 1908, Roseburg, Ore.:

At U. S. Land Office copying part of plat of Township 24 S., R. 7 W., for use in field investigation. Getting list of additional names of Minnesota parties mentioned in letter "P" 172502 et al., of Apr. 6, 1908, to L. R. Glavis. At county court-house searching records for conveyances and assessments in re U. S. Nichols et al.

June 24, 1908, Roseburg—Olalla and return.

June 25, 1908, Roseburg—Oakland, Ore.:

Lv. Roseburg, Or., 8.45 a. m. en route to Portland, Or., T. R. 33215; stopped off at Oakland, Or., at 9.22 a. m., lv. Oakland 10 a. m. Paid J. T. Davisson for ferrying across Umpqua River near Kellogg, Or., \$1.00. Team hire, \$4.75. Ar. Oakland Or., 7 p. m.

June 26, 1908, Oakland to Portland, Ore.:

Lv. Oakland, Ore., 9.22 a. m., ar. Portland, Ore., 5.30 p. m. via S. P. R. R., fare T. R. 33215 (\$6.00). Transporting baggage from depot to house at Portland, Ore., .25

June 27, 1908, Portland, Ore.:

Made letter report recommending further examination of T. T. in sec. 30, T. 29 S., R. 3 W., Roseburg land district. Wrote assessor and county clerk, Douglas

Co., Ore., in re transfers in Tp. 24 S., R. 8 W., Roseburg land district. Took advt. C. Olsen and S. Locke in re frauds of J. C. Burke in Portland, Ore., land district. Interviewed Mrs. K. M. Downing in re Siletz entries. Went to see C. R. Hart, Portland, Ore., in re T. T. in sec. 30, Tp. 29 S., R. 3 W.; he was out of town.

June 28, 1908, Portland, Ore.

June 29, 1908, Portland, Oregon:

Presented case *vs.* J. C. Burke for action under amended sec. 4748, R. S. U. S., to U. S. atty.

June 30, 1908, Portland, Oregon:

Made out expense account for June, 1908. Made favorable report on alleged T. T. of O. D. Agen. Made favorable report on HE 12323 of E. P. Bagshaw, all in Roseburg, Oregon, land district. At office of U. S. attorney looking for papers in connection with timber and stone entries made in interest of A. R. Downs, and conferring with asst. U. S. atty. concerning proceedings against one J. C. Burke et al.

PORTLAND, OREGON, *June 8th, 1908.*

Honorable COMMISSIONER GENERAL LAND OFFICE,
Washington, D. C.

* Sir: Inclosed herewith please find subpoena issued out of the district court of the United States for the district of Oregon for my appearance before the grand jury for the said district on June 4th, 1908.

This subpoena was served upon me on May 25th, 1908, and since that date I have had to be in Portland in order to appear at the date named in the same. I appeared before the said jury to-day at 1 p. m. and was engaged about half an hour with the said jury.

I make the above explanation in order to account to your office for my long stay in office when I should have been in the field.

Very respectfully,

HORACE TILLARD JONES,
Special Agent, U. S. O.

In the district court of the United States for the district of Oregon.

UNITED STATES OF AMERICA, *District of Oregon, ss:*

The President of the United States of America to Horace Tillard Jones, greeting:

You are hereby commanded to be and appear in the district court of the United States for the district of Oregon, at Portland, in said district, on Thursday the 4th day of June, 1908, at 9 o'clock a. m., then and there to testify on behalf of the United States, and not to depart the court without leave thereof or of the district attorney. And hereof fail not.

Witness the Hon. Charles E. Wolverton, judge of said court, and the seal thereof affixed on this 25th day of May, 1908.

A. M. CANNON, *Clerk.*

[Seal of U. S. district court, district of Oregon.]

Daily reports, July, 1908.

[All signed "Horace Tillard Jones, Special Agent."]

July 1st, 1908, Portland, Oregon:

Wrote T. B. Neuhausen, Spl. Insp. Intr. Dept. for papers in re U. S. *vs.* A. R. Down et al. At U. S. Land Office, Portland, Ore., getting sworn statements of T. & S. claimants, located fraudulently by J. C. Burke and O. M. Stafford. Interviewed E. DeLonay, P. Park, C. Larsen, and S. D. Locke in re J. C. Burke and O. M. Stafford. At U. S. attorney's office, assisting in preparation of information *vs.* J. C. Burke and O. M. Stafford.

July 2nd, 1908, Portland to Albany, Albany to Portland, Oregon

Lv. Portland 8.15 a. m.; ar. Albany 12.15 p. m., via S. P. R. R.; fare, round trip, \$4.90, T. R. 1513. At county clerk's office verifying abstracts of title to T. & S. claims of J. H. Steingrandt and G. Collins for U. S. atty. in suits to set aside patent. Lv. Albany 8.18 p. m.; ar. Portland, Ore., 11.15 p. m., via S. P. R. R., on return ticket. Seat in Pullman, Albany to Portland, .50.

July 3rd, 1908, Portland, Ore.:

Wrote P. F. Smith, spl. agt., Seattle, Wash., requesting 4 180 reports blanks. Wrote R. & R., Roseburg, Ore., transmitting relinquishment of T. & S., C. E. 9326, H. W. Singleton. Copying six page affidavit of J. W. Gardner to be used in 4-180 reports on T. & S., C. E. 9559, S. W. Turnell and five others in Roseburg land district. Assisting U. S. atty. in preparing information for arrest of Burke and Stafford for fraudulent locations of T. & S. claims.

July 4, 1908, Portland, Ore., Independence Day.

July 5, 1908, Portland, Ore., Sunday.

July 6, 1908, Portland, Ore.:

Consulting with U. S. atty. for Oregon, in re suits to set aside patent in Hyde & Benson case. Making copies of affidavit of G. Bateman et al for 4-480 reports on T. & S. entries of L. W. Turnell and five others, Roseburg, Ore., land district.

July 7, 1908, Portland, Ore.:

Making letter report on entries in Lakeview land district known as "Dorgan & Devine" entries. Took advt. F. Wodth, in re T. & S. entry of E. Billings. Prepared stipulation in case of U. S. vs. C. W. & A. E. Anderson coal lands, in Roseburg land district, for extension of time for taking depositions of A. W. Belden et al. Telegraphed G. L. O. for permission to use \$50 for auto hire in case of U. S. vs. J. C. Burke et al.

July 8, 1908, Portland, Ore.:

Consulting with T. B. Neuhausen in re Dorgan & Devine entries in Lakeview land district. Preparing letter report in re said entries. Interviewing Henry Huick in re J. C. Burke matter.

July 9, 1908, Portland, Ore.:

Lv. Portland, 6 a. m. in company with H. Huick, E. Delonay, C. Olsen, and S. N. Stoner. Made field exam. of witness, trees, and corner stone to sec. 16-17, 20 and 21 of Tp. 5 S., R. 4 E., for use in case of U. S. vs. J. C. Burke et al. Interviewed Ed. Spulak, Colton, Ore., in re said Burke matter. Auto hire for above trip, \$48.00.

July 10, 1908, Portland, Ore.:

Interviewed Mrs. Afton Drake in re contest vs. H. E. of H. D. Drake in La Grande L. D.

July 11, 1908, Portland, Or.:

Copying affidavits for 4-480 report on T. & S. entries of S. W. Turnell et al. Roseburg land district.

July 12, 1908 (Sunday:), Portland, Ore.:

Lv. Portland 6 p. m., via O. R. & N. Co., en route to Baker City, Or.; round trip fare, \$21.30. T. R. 1514. Sleeper fare, \$2.50.

July 13, 1908, Portland, Ore., Baker City, Or.:

Ar. Baker City, Or., 9.10 a. m., fee to porter, .25. Had three interviews with H. F. Beardsley et al. in re frauds of H. E. G. Cooke. Telegram to L. R. Glavis, Portland, Or., .30; telegram from L. R. Glavis, Portland, Or., .40; telegram to L. R. Glavis, Portland, Or., .32. Bus hire from depot to hotel at Baker City (round trip), .25. Conferring with Sheriff Rand & U. S. Commr. Moore at Baker City in re holding of witness vs. H. E. G. Cooke until hearing.

July 14, 1908, Baker City, Ore.:

Conferring with Sheriff Rand & U. S. Com. Moore at Baker City, Ore., in re H. E. G. Cooke. Interviewed W. T. Ferguson et al. in re Cooke frauds. Took advt. H. E. Beardsley et al. in re said Cooke frauds. Interviewed F. H. Smith, of Baker City, Ore., in re Cooke frauds.

July 15, 1908, Baker City to John Day, Ore.:

Lv. Baker City, Or., 9.30 a. m., ar. John Day, Ore., 8.30 p. m.; fare, via S. V. R. R., from Baker City to Austin, Or. (arriving at Austin, 12.30 p. m.), \$2.50; fare, via Blue Mountain Rapid Transit Stage Co., from Austin to John Day, Or. (leaving Austin at 2 p. m.), did not expect to return in 10 days, \$4.00. Interviewed R. Dieckmann in re case of U. S. v. J. H. Parker.

July 16, 1908, John Day, Ore.:

Made field investigation, with Spl. Agt. R. P. Cowgill and J. A. Shields, liveryman of land in Tp. 11 S., R. 29 E., where New York parties were shown by H. E. G. Cooke as the place where they were to locate on timber lands in La Grande, Ore., land district.

July 17, 1908, John Day, Ore.:

Returned to John Day, Ore., from field exam. of Tp. 11 S., R. 29 E. P. O. address for July 18-19-20-21 will be John Day, Ore.

July 18, 1908, Mt. Vernon, Ore.:

Drove from John Day, Ore., to Mt. Vernon, Ore. Made field examination of T & S 0120 W. D. Hess, 0132 F. H. Corran, and 0127 M. Rosenburg, La Grande, Or., land district, in re the H. E. Cooke locations, with R. P. Cowgill.

July 19, 1908, Mt. Vernon, Ore.:

Drove from Mt. Vernon to the ranch of W. Cummings. Interviewed said Cummings concerning the location of the government survey marks to Tp. 12 S., R. 28 E., with R. P. Cowgill.

July 20, 1908, Cummings's Ranch, Mt. Vernon, Ore.:

Made field examination of lands in townships 12 S., Ranges 27 and 28 E., W. M., th La Grande, Ore., land district located by party under H. E. G. Cooke.

July 21, 1908, Cumming's Ranch, Mt. Vernon, Ore.:
Drove to Austin, Oregon, with R. P. Cowgill, en route to Baker City, Ore. Left Cumming's ranch at 7.30 a. m.

July 22, 1908, Austin, Baker City, Or., Portland, Ore.:
Lv. Austin, Or., 2.30 p. m., via S. V. R. R.; fare, \$2.50. Ar. Baker City, 5.30 p. m. Interviewed S. F. and S. D. Patten, at Austin, Ore., in re alleged fraudulent locations by L. G. DeWolf, in Burns land district. Interviewed O. J. Wissler, J. E. Benjamin, and M. J. Hitchcock, at Baker City, Or., in re Cooke locations. Bus hire, round trip, from depot to hotel at Baker City, \$0.25; sleeper fare from Baker City to Portland, Or., \$2.50. Lv. Baker City, Or., 8.10 p. m.

July 23, 1908, Portland, Or.:
Ar. Portland, Or., 10 a. m.; fee to Pullman porter, \$0.25.
Telegraphed R. P. Cowgill, Baker City, Ore., to come in and assist in making report on Cooke matter to G. L. O. At office of clk. U. S. court looking over indictment and getting local status of H. E. G. Cooke.

July 24, 1908, Portland, Or.:
At office of U. S. atty. looking over personal papers, diary, etc., of H. E. G. Cooke with Special Agent Cowgill. Made letter report to G. L. O. on status of criminal cases vs. F. P. Mays et al. (letter "A" atty., filed 28, 35, 37, & 53). Made letter report to G. L. O. on criminal case vs. J. C. Burke and O. M. Stafford. Made favorable report to chief field div. 1 on T. & S. entries of C. E. Rider et al., Roseburg L. D.

July 25, 1908, Portland, Ore.:
Interviewed D. W. Reardon, C. O. Rogers, and G. Hofstrand in re contests vs. H. E. 14369 J. Stanke, 14397 A. R. Lawton, & 14392 C. V. Hare, Portland land district. Preparing letter report to G. L. O. in re H. E. G. Cooke matter. Interviewed E. F. Cannon in re said Cooke matter.

July 26, 1908 (Sunday), Portland, Ore.:
Preparing letter report to G. L. O. on Cooke matter.

July 27, 1908, Portland, Ore.:
Interviewed S. W. Purdy in re his suspended T. & S. entry in Tp. 35 S., R. 12 W. Completed and mailed report to G. L. O. on Cooke matter. Sent copy of same to U. S. atty. at New York. Notified U. S. attorney at New York of mailing of report.

July 28, 1908, Portland, Ore.:
Wrote to Miss A. Crandall, Hagerman, Ida., in re H. E. G. Cooke. Wrote to assessors of Harney, Baker, and Grant counties, Ore., and to Miss A. Ehrgood in re H. E. G. Cooke. Took afdt. C. Van Alstine in re alleged frauds in Alaska. Interviewed C. E. Wellwood in re his H. E. in Siletz Reservation. Wrote H. F. and J. B. Rader, Kellogg, Ore., in re H. E. 10418. Portland series, O. Shipley. Made copy afdt. W. H. Singleton in re his T. & S. 9326, Roseburg, Ore., series.

July 29, 1908, Portland, Ore.:
Made type copy afdt. G. H. Strader in re T. & S. 9325, Roseburg series. Interviewed A. Ehrgood in re H. E. G. Cooke. She refused to make afdt. Made out statement of her admissions to be signed by Special Agents West, Alexander, Spaulding, and Jones. Worked until 9 o'clock p. m. on report of Dorgan and Devine entries.

July 30, 1908, Portland, Ore.:
Interviewed D. Buck and J. Shemansky in re alleged frauds of J. W. McIlwin and G. Kerns in timber locations. Made supplemental report to H. L. Stimson, U. S. atty. for New York, in H. E. G. Cooke case. Made 4-480 report on H. E. 11658, L. Wodtli. Wrote R. P. Cowgill, spl. agt. G. L. O., transmitting papers in case of U. S. v. H. J. H. Parker for survey and photographs.

July 31, 1908, Portland, Ore.:
Interviewed G. D. Stearns in re T. & S. entries, Roseburg series of N. N. Hinsdale and J. B. Both. Made out monthly account for July. Went to Vancouver, Wash., land office to get draft for July expenses.

Daily reports, August, 1908.

[All signed "Horace Tillard Jones, special agent."]

August 1st, 1908, Portland, Ore.
August 2, 1908, Portland, Ore., Sunday.
August 3, 1908, Portland, Ore.
August 4, 1908, Portland, Ore.
August 5, 1908, Portland, Ore.
August 6, 1908, Portland, Ore.:
Interviewed David Buck and A. Shapiro in re fraudulent locations in Roseburg land district by J. W. McIlwin and G. D. Kerns, and prepared affidavit for said Buck's

signature. Took afdvt. C. T. Wilson in re H. E. 15752 F. Graybeal, Portland, Ore., series. At U. S. land office getting data concerning said Graybeal H. E. Made out and transmitted to G. L. O. supplemental account for April, 1908, with letter.

August 7, 1908, Portland, Ore.:

Wrote G. W. Smith, Co. Clk. Curry Co., in regard to return of records of said county retained by U. S. court for use in Pacific Furniture & Lum. Co. case. Returned to T. B. Neuhausen papers loaned by him in connection with case of U. S. vs. A. R. Downs et al. Wrote W. H. Evans, asst. U. S. atty. in re U. S. vs. J. C. Burke. Completed affidavit and secured signature of D. Buck in re J. W. McIrwin et al.

August 8, 1908, Portland, Ore.:

Conferring with surveyor general for Oregon in re H. E. 0233 F. A. Gaylord, 0446 E. G. Knowlton, 0477 L. O. Olmstead, La Grande district on unsurveyed land in forest reserves. Took afdvt. A. Shapiro in re frauds of J. W. McIrwin et al. Made 4-480 reports on T. & S. C. E. 9559 S. W. Turnell and 9322 E. R. Forester, Roseburg land district. Wrote R. & R. in re same.

August 9, 1908, Portland, Ore., Sunday.

August 10, 1908, Portland, Ore.:

Getting status of Siletz entries at U. S. Land Office.

August 11, 1908, Portland, Ore.:

At U. S. Land Office running homestead application, cash entry, patent register, and contest docket in re entries in the Siletz, Oregon, for investigation.

August 12th, 1908, Portland, Ore., Headquarters.

August 13, 1908, Portland, Ore.:

At U. S. Land Office getting status of Siletz entries. Presented complaint of A. Shapiro and D. Buck vs. J. W. McIrwin and G. W. Kerns for fraudulent locations.

August 14, 1908, Portland, Ore.:

Working on Siletz cases and getting them ready for field examination. Consulting letter-press books of other agents who have investigated the Siletz.

August 15, 1908, Portland, Ore.:

Working on Siletz cases getting them ready for examination. Consulting books of other agents who have investigated the Siletz.

August 16, 1908, Portland, Ore.:

Made letter report to G. L. O. on contest applications of P. M. Curry and C. O. Rogers vs. H. E. 14392 of C. V. Hare recommending rejection of same.

August 17, 1908, Portland, Ore.:

Lv. Portland, Or., 9.10 a. m., ar. Vancouver, Wash., 9.50 a. m. Lv. Vancouver, Wn., 1.30 p. m., ar. Portland, Or., 2.10 p. m., round trip fare via Portland Railway, Light and Power Co., .35. Attending to matters contained in letter "A" 1908-146642 JWD, dated August 10, 1908. Interviewed C. O. Rogers in re his contest vs. HE 14392 of C. V. Hare, Portland series. Interviewed Lewis Jones in re his HE 14364, Portland series, and other Siletz entrymen. Made letter report to GLO recommending rejection of application of R. S. Derrick to contest HE 14205 S. Strylewicz, Portland series.

August 18, 1908, Portland to Vancouver & ret.:

Lv. Portland 1.50 p. m., ar. Vancouver, Wn., 2.30 p. m. Lv. Vancouver 6.50 p. m., ar. Portland 7.30 p. m., round trip fare Portland Ry. & Elec. Co., .35. Attending to matters contained in letter "A" 146642 JWD. Working on records of reports and examinations of Agents Lafferty, Watts, & McMechan in re Siletz entries. Fall City, Aug. 25, 08.

August 19, 1908, Portland to Vancouver:

Lv. Portland 9.50 a. m., ar. Vancouver, Wn., 10.30 a. m. Lv. Vancouver 2.10 p. m., ar. Portland 2.50 p. m., round trip fare via Port. Ry. L. & P. Co. .35. Attending to matters in letter "A" 146642 JWD, and made report thereon by letter to GLO. Dallas, Or., until further notice.

August 20, 1908, Portland to Dallas, Or.:

Lv. Portland 7.40 a. m., ar. Dallas, Or., 11 a. m., via S. P. R. R., fare, no rebate \$1.90. Interviews, 4. Dallas, Or., until further notice.

August 21, 1908, Dallas, Ore.:

Making plats of Siletz entries. Took afdvt. P. A. Smith in re H. E. 14329. Interviewed J. Crowther in re H. E. 14377; interviewed W. P. Holman in re H. E. 14325 all in Portland land district. Dallas, Or., until further notice.

August 22, 1908, Dallas, Ore.:

At county assessor's office searching records as to taxes against Siletz homesteaders. Dallas until further notice.

August 23, 1908, Dallas, Ore.:

Affidavits, 2; interviews, 2.

August 24, 1908, Dallas, Ore.:
 Affidavits, 3; interview, 1.
 August 25, 1908, Dallas, Ore.:
 Affidavit, 1; interviews, 3.
 August 26, 1908, Dallas to Falls City, Or.
 August 27, 1908, Falls City-Dallas, Ore.:
 Affidavits, 3; interviews, 4.
 August 28, 1908, Dallas-Portland, Or.:
 Interview, 1.
 Saturday, August 29, 1908, Portland, Oregon, headquarters:
 Examining reports of Special Agents McMechan, Lafferty, and Watts on Siletz homesteads to ascertain list of such cases as require reinvestigation.
 Sunday, August 30, 1908, Portland, Ore., headquarters.
 Monday, August 31, 1908, Portland, Ore., headquarters:
 Copied afdvts. of H. W. Clifford, Wm. McHardy, J. L. Coudron, & C. O. Tennis.
 Took afdvt. Wm. Stauke in re his H. E. 14362, Portland district. Interviewed Lewis Jones in re contest of R. N. Nash vs. H. E. 14364. Interviewed D. W. Reardon in re contest of Wm. Leese vs. H. E. 14397 of A. R. Lawton. Interviewed D. Edgar in re Siletz homesteads. Made out monthly account for August.

Daily reports, September, 1908.

[All signed "Horace Tillard Jones, special agent."]

Tuesday, September 1, 1908, Portland, Ore., headquarters:
 Copied affidavits of I. B. Lowe, L. M. Lee, C. E. Wellwood, E. Wellwood, and P. A. Fineth in re Siletz homestead entries. Arranging Siletz cases for report.
 Wednesday, September 2, 1908, headquarters:
 Copying affidavits of William McHardy and A. N. Robinson, relative to thirty Siletz homestead entries, to be used in making 4-480 reports.
 Thursday, September 3rd, 1908, Portland, Ore., headquarters:
 Confering with chief first field div. in re Borgan and Devine Lakeview cases.
 Cases reported: Entry, bad, 1.
 Friday, September 4th, 1908, Portland to Newport, Or.:
 To Underwood Typewriter Co., for packing typewriter for shipment to Newport, Or., \$.50. To B. & O. T. Co., baggage from house to depot, Portland, Or., .50. To Bain's Dray, Newport, Or., baggage from dock to hotel, .50. Lv. Portland, 8.15 a. m.; ar. Newport, Or., 6.30 p. m., via S. P. R. R., special round trip ticket, T. R. 1515 (\$6.00), total, 1.50.
 Saturday, September 5th, 1908, Newport, Ore.
 Paid Wells, Fargo & Co., for express charges on typewriter from Portland, Or., to Newport, Or., \$1.20. Paid Bain's dray for hauling typewriter from dock to hotel at Newport, Or., .25. Total 1.45.
 Affidavits, 1; interviews, 3.
 Sunday, September 6, 1908, Newport, Ore.
 Took affidavit of C. H. Bradshaw in re action of R. & R. of Portland land office in postponing taking of evidence in contest of A. C. Gilman vs H. E. of C. H. Bradshaw in the Portland, Ore., land district.
 Monday, September 7th, 1908, Newport, Ore.
 Made 4-480 report on T. & S. 9326, H. W. Singleton-Roseburg series. Copied afdvts. T. R. Sheridan, G. Bateman & J. W. Gardner in re same. Wrote G. L. O. in re said entry & five others. Wrote Chief Field Div. in re said entries.
 Tuesday, September 8, 1908, Newport, Ore.
 Cases examined: Entries, good, 4; bad, 7. Cases reported: Entries, good, 4; bad, 7. Interviews, 1.
 Wednesday, September 9, 1908.
 Copied afdvt. A. Sampson, T. C. Stockwell. Took supplemental afdvt. L. W. Williams in re H. E. 13221. Made letter report to L. R. Glavis on H. E. 12957, J. M. Jordan; 13684, M. F. Woodruff; 13336, L. Kirsch; 13537, C. H. Wheeler; 14202, P. Kobieliski; 14411, A. Boutin; 14370, C. J. Franklin; 13735, A. Wilt. Also wrote him letter in re D. Harris. Made letter report to G. L. O. on contest applications of F. Mack vs H. E. 13735 A. Wilt; W. F. Slaughter vs H. E. 14370 C. J. Franklin; P. M. Curry vs H. E. 14361 Q. B. Smith. All in Portland, Ore. land district.
 Thursday, September 10, 1908, Newport, Ore.
 Cases examined: Entries, bad, 7. Cases reported: Entries, bad, 7.
 Friday, September 11, 1908, Newport, Ore.

Cases examined: Entries, good, 1; bad, 10. Cases reported: Entries, good, 1; bad, 11. Letters, 1.

Saturday, September 12, 1908, Newport, Oregon:

Cases examined: Entries, good, 1; bad, 5. Cases reported: Good, 1; bad, 5.

Sunday, September 13, 1908, Newport, Ore.:

Copied statement of A. C. Gilman in re H. E. 14352, C. S. Palmer, and made 4-480 report on said entry; also on H. E. 14382, H. W. Clifford, all in Portland, Ore., land district.

Monday, September 14, 1908, Newport, Ore.:

My telegraphic address (and for matters requiring investigation above, Kernville & Otis, Ore.) will be Kernville, Ore., until the 18th of September-08. Other matters address Newport, Ore.

Cases examined: Entries, bad, 1. Cases reported: Bad, 6. Letters, 2.

Tuesday, September 15, 1908, Newport to Kernville, Ore.:

Leave Newport, Or., 9 a. m.; ar. Kernville, Or., 6 p. m.

Wednesday, September 16, 1908, Kernville, Ore.:

Paid John Fogarty, Newport, Or., team hire for two days, \$10.00. Took afdvt. J. Powlukowski in re his H. E. 14581-14582, J. Aleksa; 16144, M. O. Bryant; 13628, L. A. Moll; 13237, J. Smietana; 13335, A. Redzewski. Took afdvt. J. A. Read in re H. E. 14683; 14511, N. Anderson; 14795, G. E. Lyne; H. E. 13335, A. Redzewski. Afdvt. N. Anderson, jr., in re H. E. 14511, N. Anderson, dec'd. Afdvt. S. Strylewicz in re H. E. 14205. Afdvt. J. Smietana in re his H. E. 13237. Afdvt. A. L. Stephens in re H. E. 15477. Afdvt. A. Redzewski in re his H. E. 13335, all in Portland, Or., land district.

Thursday, September 17, 1908, Kernville, Ore., to Taft, Ore.:

Took afdvt. J. Aleksa in re his H. E. 14582. Afdvt. W. Bones in re his H. E. 14731. Afdvt. W. Bones in re H. E. 14974, L. Breeding 13237, J. Smietana. Afdvt. G. E. Lyne in re H. E. 14795, 13237 J. Smietana, 14582 J. Aleksa, 14581 J. Powlukowski, 13335 A. Redzewski, 14205 S. Strylewicz, 14731 W. Bones, 14974 L. Breeding, 16433 E. Olsen. Afdvt. John T. Dickens in re H. E. C. Martin, H. E. R. Winters, 14663 J. A. Read, 14731 W. Bones. All in Portland land district. Lv. Kernville, Or., 4 p. m., ar. Taft, Or., 5 p. m. Paid Fred Oaf, Kernville, Ore., for boat hire .50.

Friday, September 18, 1908, Taft, Ore.:

Cases examined: Entries, good, 5. Affidavits, 1.

Saturday, September 19, 1908, Taft, Ore.:

Cases examined: Entries, good, 5; bad, 2. Affidavits, 1; interviews, 2.

Sunday, September 20, 1908, Taft, Otis, Taft, Ore.:

Cases examined: Entries, good, 1. Interviews, 1.

Monday, September 21, 1908, Taft, Ore., Newport, Ore.:

Cases examined: Entries, bad, 1. Interviews, 1.

Tuesday, September 22, 1908, Newport, Ore.:

Cases reported: Entries, good, 4; miscellaneous, bad, 1. Letters, 4.

Wednesday, September 23, 1908, Newport, Ore.:

Cases reported: Entries, good, 11. Letters, 1.

Thursday, September 24, 1908, Newport, Ore.:

Made typewritten copy of affidavits in following homestead entries: H. E. 1600 L. McClintock (1), 14731 W. Bones (3), 15477 A. L. Stephens (1), 14795 G. E. Lyne (2), 14511 N. Anderson (2), 14581 J. Powlukowski (3), 13237 J. Smietana (3), 14582 J. Aleksa (2), 13335 A. Redzewski (3), 14205 S. Strylewicz (1), 13628 L. Moll (1), 13369 M. M. Parmele (1), 14683 J. A. Read (1), 14928 E. Hovrin (1), 14927 E. Sarri (1), 1535 J. Affalter (1), 15362 B. Legler (1), 14038 A. Wallace, 14974 L. Breeding (3), 1600 T. J. Kerr (2), 16144 O. M. Bryant (1), — C. Martin (1), — R. Winters (1). — N. Nelson (1), — A. Lisvig (1), all in Portland, Ore., land district.

Friday, September 25, 1908, Newport, Ore.:

Cases reported: Entries, good, 1; miscellaneous, bad, 1. Interviews, 1; letters, 1.

Saturday, September 26, 1908, Newport, Ore.

Cases reported: Entries, good, 2; bad, 6.

Sunday, September 27, 1908, Newport to Toledo, Ore.:

Went to South Beach, Newport, Ore., to interview Tracy Davis in re E. A. Moor H. E. 14659; he was not at home. Ferriage across Yaquina Bay from Newport, Ore. to Simon Linton, Newport, Ore., \$.25. Ferriage across Yaquina Bay from South Beach to Newport, Ore., paid Lee Dotey, Newport, Ore., no rebate for RT., .2. Interviewed John Frey, Newport, Ore., in re H. E. 13221, L. W. Williams. Interviewed R. N. Nash, in re contest vs H. E. 14364 L. Jones; bus hire from Irvin Hotel, Newport, Ore., to dock at Newport, Ore., .25. To Rowan and Fogarty, transfer of baggage from hotel to dock at Newport, Ore., .50. Lv. Newport 5.15 p. m. via C. & E. R. R.; ar. Toledo, Ore., 6.30 p. m. Fare from Yaquina to Toledo, Ore. .35—\$1.60.

Monday, September 28, 1908, Toledo, Ore.:

Affidavits, 2; interviews, 4.

Tuesday, September 29, 1908, Toledo to Albany, Ore.:

Interviews, 1.

Wednesday, September 30, 1908, Albany, Ore., to Portland, Ore.:

Interviews, 4.

Daily reports, October, 1908.

[All signed "Horace Tillard Jones, special agent."]

Thursday, October 1, 1908, at headquarters, Portland, Ore.:

Conferring with L. R. Glavis, Chief Field Div., on Siletz entries. Interviewed A. I. Moulton in re Siletz homesteads. Made out monthly expense account for September, 1908. Letters, 1.

Friday, October 2, 1908, Portland, Oregon, Headquarters:

Cases examined, entries, good, 3; bad, 1. Cases reported, entries, good, 3; bad, 1. Affidavits, 1; letters, 2.

Saturday, October 3, 1908, Portland, Ore., Headquarters:

Cases examined, misc., good, 1; bad, 1. Cases reported, misc., good, 1; bad, 1. Interviews, 4.

October 4, 1908, Portland, Oregon, Headquarters: Sunday.

Monday, October 5, 19—, Headquarters:

Cases examined: Entries, good, 1; bad, 4. Cases reported: Entries, good, 1; bad, 4. Letters, 3.

Tuesday, October 6, 1908, Portland, Oregon:

Consulting with U. S. Atty. for Oregon in re suits to cancel patents to Hyde & Benson lands. Cases examined: Entries, good, 1; bad, 11. Cases reported: Entries, good, 1; bad, 11. Interviews, 1.

Wednesday, October 7, 19—, Portland, Oregon:

Conferring with U. S. Atty. for Oregon in re suits to set aside patents on Hyde & Benson lands. Took advt. W. J. Shay in re his H. E. 16203—H. E. 16176 C. Burn, 16184 F. P. Hoy. Took advt. J. M. Wilson in re his C. E. 9408 & C. E. 9407 A. E. Bush. All in Portland, Ore., land district.

Thursday, October 8, 1908, Portland, Ore.:

Conferring with U. S. Atty. for Oregon in re suits to set aside patent to Hyde & Benson lands. Examining abstracts of title. Cases examined: Entries, good, 2; bad, 1. Cases reported: Entries, good, 2; bad, 1.

Friday, October 9, 1908, Headquarters:

At office of U. S. Atty. for Oregon assisting F. C. Becker in trial of Pacific Furniture & Lumber Co. case.

Saturday, October 10, 1908, Headquarters:

Assisting F. C. Becker, Asst. Atty. Genl. in trial of P. F. & L. Co.

Sunday, October 11th, 1908, Headquarters to Reedville, Ore., and ret.

Lv. Portland, 8.50 a. m.; ar. Reedville, Ore., 9.45 a. m. Fare to Reedville, via S. P. R. R., .50. Walked from Reedville to Beaverton, Ore. Lv. Beaverton, 4.20 p. m.; ar. Portland, 5.00 p. m. Fare via S. P. R. R., .35.

Monday, October 12th, 1908, Headquarters:

Assisting F. C. Becker, asst. atty. genl., in trial of P. F. & L. Co.

Tuesday, October 13th, 1908, Headquarters:

Assisting F. C. Becker, asst. atty. genl., in trial of P. F. & L. Co.

Wednesday, October 14th, 1908, Headquarters:

Assisting F. C. Becker, asst. atty. genl., in trial of P. F. & L. Co.

Thursday, October 15th, 1908, Headquarters:

Assisting F. C. Becker, asst. atty. genl., in trial of P. F. & L. Co.

Friday, October 16th, 1908, Headquarters:

Assisting F. C. Becker, asst. atty. genl., in trial of P. F. & L. Co.

Saturday, October 17th, 1908, Headquarters:

Assisting F. C. Becker, asst. atty. genl., in P. F. & L. Co. trial.

Paid for transfer of Underwood typewriter from U. S. atty. office to office of chief field div. in custom house, .25. Cases examined: Entries, good, 3; bad, 2; miscellaneous, good, 1. Cases reported: Entries, good, 3; bad, 2; miscellaneous, good, 1. Letters, 1.

Sunday, October 18, 1908, Headquarters.

Monday, October 19, 1908, headquarters to Pendleton, Ore.:

Lv. Portland 8.30 a. m. via O. R. & N. Co.; round trip fare, see T. R. 1516 (\$13.70). Ar. Pendleton 4.30 p. m. Seat in Pullman from Portland to Pendleton, Ore., \$1.25.

Tuesday, October 20, 1908, Pendleton to headquarters:

Interviewed John Vert, J. E. Smith, J. B. Gwynn, K. G. Warner, and C. B. Adams in re Hyde and Benson lieu selections. Telephone message to K. G. Warner, Pilot

Rock, Ore., .25. Lv. Pendleton, Ore., 2 p. m., ar. Portland, Ore., 10 p. m. via O. R. & N. Co., on return ticket. Seat in Pullman from Pendleton to Portland, Ore., 1.25. Interviews, 5.

Wednesday, October 21st, 1908, Portland, Ore.:

Made letter report to U. S. Atty. for Ore. in re Hyde and Benson lieu selections. Lv. Portland, Or., 3 p. m., ar. Oregon City, Ore., 3.50 p. m. via O. W. P. & Ry. Co. round trip fare, .45. Interviewed B. T. McBain, of Willamette Pulp and Paper Co. in re Hyde and Benson lieu selections. Lv. Oregon City, 4.38 p. m., ar. Portland, Ore., 5.15 p. m., on return ticket. Interviewed Geo. W. Smith in re Pacific Furniture and Lumber Co.

Interviews, 2; letter, 1.

Thursday, October 22, 1908, headquarters:

Affidavit, 1, letter, 1.

Friday, October 23, 1908, headquarters:

Cases examined: Entries, good, 6; bad, 1. Cases reported: Entries, good, 6; bad, 1. Letters, 1.

Saturday, October 24, 1908, Headquarters:

Cases examined: Entries, good, 8; bad, 1. Cases reported: Entries, good, 8; bad, 1.

Sunday, October 25th, 1908, Headquarters. Sunday.

Monday, October 26, 1908, Headquarters:

Cases examined: Miscellaneous, good, 1. Cases reported: Miscellaneous, good, 1. Affidavits, 3; interviews, 1.

Tuesday, October 27, 1908, Headquarters:

At U. S. atty's office assisting chief field div. in Pacific Furniture and Lumber Co. case. Made report to G. L. O. in name of chief field div., on Hyde and Benson lieu selections, six selections in all. Wrote letter for signature of chief field div. in Lafferty disbarment proceedings.

Letters, 1.

Wednesday, October 28, 1908, headquarters:

Cases reported: Entries, good, 3.

Thursday, October 29, 1908, headquarters:

Cases examined: Entries, good, 7; miscellaneous, good, 1. Cases reported: Entries, good, 7; T. T., good, 1; miscellaneous, good, 1.

Friday, October 30, 1908, headquarters:

Cases examined: Entries, good, 1; bad, 3. Cases reported: Entries, good, 1; bad, 3.

Saturday, October 31, 1908, headquarters:

Affidavits, 1; interviews, 5.

Daily reports, November, 1908.

[All signed "Horace Tillard Jones, special agent."]

Sunday, November 1st, 1908, Headquarters, Sunday.

Monday, November 2, 1908, Headquarters:

Made out expense account for October. Interviewed Mrs. F. M. Cook in re const. H. E. 14324 of Eva C. Smith.

Tuesday, November 3rd, 1908, Headquarters:

Preparing for use of Chief, First Field Div., abstract of names of present owner lands in Lakeview, Ore., land district located by Dorgan and Devine.

Wednesday, November 4, 1908, Headquarters:

Cases examined: Entries, bad, 2; miscellaneous, bad, 1. Cases reported: Entries, bad, 2; miscellaneous, bad, 1. Interviews, 2; letters, 2.

Thursday, November 5, 1908, Headquarters:

Cases examined: Entries, good, 3. Cases reported: Entries, good, 3. Affidavit interview, 1.

Friday, November 6, 1908, Headquarters:

Cases examined: Entries, good, 2. Cases reported: Entries, good, 2: Interview

Saturday, November 7, 1908, Headquarters:

Cases examined: Entries, good, 5. Cases reported: Entries, good, 5. Affidavits, 3; letters, 3.

Sunday, November 8th, 19—, Headquarters, Sunday.

Monday, November 9th, 1908, Headquarters:

Took afdvt. A. R. Lawton in re his H. E. 14397. Interviewed D. C. Henny, Reclamation Service, in re irrigation in Oregon. Interviewed J. T. Williams of the Oregon Chamber of Commerce, on agricultural conditions in Oregon. For U. S. National Conservation Commission.

Tuesday, November 10, 1908, Headquarters:

Interviewed Edward A. Beals, Chief Oregon Weather Bureau in re "Rainfall in Oregon." Interviewed E. T. Allen of Forest Service in re "Grazing in Oregon."

Interviewed A. Welch of the Willamette Traction Co., on "Water power in Oregon." The result of such interviews to be made subject of report to National Conservation Commission.

Wednesday, November 11, 1908, Headquarters:

Interviewed J. C. Stevens, Chief Hydrographer for Oregon in re "Flood waters in Oregon." Wrote letter to Governor G. E. Chamberlain in re "Swamp lands in Oregon." At office of U. S. Attorney working on papers in pending suits to cancel lieu selections of Hyde & Benson.

Thursday, November 12, 1908, Headquarters:

Preparing report for Chief First Field Div. on schedule of inquiries contained in Bulletin No. 3 of National Conservation Commission.

Friday, November 13, 1908, Headquarters:

Preparing report for Chief First Field Division on schedule of inquiries contained in Bulletin No. 3 of National Conservation Commission.

Saturday, November 14, 1908, Headquarters:

At office U. S. Attorney getting data concerning legal fees of U. S. Commissioners in contested land cases in Oregon.

Sunday, November 15, 1908, Headquarters:

Getting data from first count of Indictment vs. F. W. Gilchrist et al for use in report to Chief First Field Div., as to names of entrymen for the lands contained therein. At office from 9 a. m. to 5 p. m.

Monday, November 16, 1908, Headquarters:

At office of Clerk of U. S. Courts getting status of pending suits before District and Circuits for the Oregon District. See letter "P" A. F. McC. to L. R. Glavis. Prepared report for GLO for National Conservation Commission on revision of land laws in Alaska.

Tuesday, November 17, 1908, Headquarters:

At Clerk's Office U. S. Courts getting status of suits pending in the Oregon District and Circuit Courts. See letter "P" A. F. McC., Oct. 22, 1908, to L. R. Glavis. At U. S. Atty. Office getting decisions in re filing of protests and non-mineral affidavits in re mining lands, and lieu selections in J. H. Parker case and other pending cases to be tried on this calendar.

Wednesday, Nov. 18, 1908, Headquarters:

Making report to GLO as to status of pending suits in First Field Division in the District and Circuit Courts.

Thursday, November 19, 1908, Headquarters:

Completed report to GLO on status of pending suits in US District and Circuit Courts for Oregon. See letter "P" A. F. McC. to L. R. Glavis, Oct. 22, 1908.

Friday, November 20, 1908, Headquarters:

Wrote letter to Register and Receiver, Roseburg, Ore., for the status of said entry. Preparing list of lands affected by lieu selections transmitted to Chief First Field Div. by letter "P" 51633 for investigation as to base lands at Salem, Oregon. Affidavit, 1. Letter, 1.

Saturday, November 21, 1908, Headquarters:

Consulting with Asst. U. S. Attorney for Oregon as to witnesses to be subpoenaed in U. S. vs. J. H. Parker. Made adverse report on contest application of H. E. Cook vs. E. C. Smith, H. E. 14324, Portland series. Adverse report on appl. of R. M. Spencer to contest H. E. 14394, A. R. Lawton. Adverse report on appl. of A. M. Spencer to contest H. E. 14392 of C. V. Hare, all in Portland land district.

Sunday, November 22, 1908, Headquarters, Sunday.

Monday, November 23, 1908, Headquarters:

Making schedule of lands preparatory to getting data from State Land Office at Salem, Ore., in re lieu selections and the base lands therefor. Lv. Portland, Ore., 11 a. m.; ar. Salem, Ore., 1.25 p. m.; fare, round trip, via Oregon Electric Co., 2.75. Working at State Land Office, Salem, Ore., getting names of original applicants for base lands. See letter "P" 50204, JFC-JJ.

Tuesday, November 24, 1908, Headquarters:

Working at State Land Office, Salem, Ore., on list of base lands from lieu selection as per letter "P" 50204, JFC-JJ. Lv. Salem, Ore., 4 p. m.; ar. Portland, Ore., 6 p. m. on return ticket.

Wednesday, Nov. 25, 1908, Headquarters:

Examining witnesses for the prosecution in the case of the U. S. vs. James H. Parker under amended section 4746, R. S. U. S., at office of U. S. attorney for Oregon.

Thursday, November 26, 1908, Headquarters:

Examining witnesses for prosecution in U. S. vs. J. H. Parker et al. under sec. 4746, R. S. U. S., as amended.

Friday, November 27, 1908, Headquarters:

Examining witnesses for prosecution in case of *U. S. vs. J. H. Parker*, indicted under sec. 4746, R. S. U. S., as amended. Testified for prosecution in said *Parker* case. Examining witnesses for prosecution in said case.

Saturday, November 28, 1908, Headquarters:

Assisting U. S. Attorney McCourt at trial of case of *U. S. vs. James H. Parker*, indicted under sec. 4746, R. S. U. S., as amended. Took afdvt. Mrs. Esther Green in re T. & S. C. E. 7396 of the Vancouver, Wash., land district.

Sunday, November 29, 1908, Headquarters:

Conferring with U. S. attorney for Oregon in re additional evidence in the case of *U. S. vs. James H. Parker*.

Monday, November 30, 1908, Headquarters:

Assisting U. S. attorney at trial of *U. S. vs. J. H. Parker*. Case went to jury to-day. Making out monthly expense account for November, 1908. Paid typewriter exchange for repairs to Underwood Typewriter, 3.25.

Daily reports, December, 1908.

[All signed "Horace Tillard Jones, special agent."]

Tuesday, December 1st, 1908, headquarters:

Supervising serving spas. in hearings for Dec., Jan. & Feb. Made out motion for commission to take oral deposition of Andrew Kennedy re H. E. 2485, J. W. Tucker. Burns land district, also deposition of S. W. Norton, jr., re D. L. E. 188, J. R. Hayworth, Burns series. Wrote registered notice of such deposition to entrymen. Made out subpoenas for A. Bennett and J. C. Gilchrist re H. E. 2568, John Farr, Burns series and transmitted them by letter to R. & R. Burns, Ore., for signature. Wrote C. J. Bingham, Forest Supervisor in re service of spas. on witnesses in contest of H. E. 1228 of John Scarff, Burns series, also witnesses in H. E. 1493, E. E. Johnson.

Wednesday, December 2, 1908, headquarters:

Wrote letter to P. M. at Condon, Ore., transmitting fee for service of spa. on A. S. Rice, W. Campbell, C. Baker, & H. W. Hartman in re H. E. 6600 of W. I. Ebbert, The Dalles series, \$4.00. Wrote P. M. at Clem, Ore., transmitting fee for service of spa. on C. Wilkins re H. E. 7365, W. H. Longley, The Dalles series, 1.00. Wrote P. M. at Condon, Ore., transmitting fee for service of spa. on C. Baker re H. E. 6071, J. R. Dimick, The Dalles series, 1.00. Wrote P. M. at Homevalley, Wash., trans. fee for serving spa. on A. W. McFarland re H. E. 7895, R. W. Kaseburg, The Dalles series, 1.00. Wrote P. M., Grass Valley, Ore., service spa. on E. Heath in re H. E. 7895, R. W. Kaseburg, The Dalles series, 1.00. Made out spa. for J. and C. Calkins & Harrison Hale, witnesses, re H. E. 8101, O. R. Conner, The Dalles series, and transmitted same by letter to R. & R., The Dalles, for signature. Wrote P. M., Lents, Ore., inclosing fee for service of spa. on L. F. Mason re H. E. 2223 of J. W. Dee, The Dalles series, 1.00. Wrote P. M., Clem, Ore., transmitting fee for service spa. on C. A. Dannemann and J. Larch re H. E. 6359, G. Welshous, 2.00. Wrote P. M., Condon, Ore., transmitting fee for service spa. on P. Dyer, C. Baker, & J. S. Harpole, sr., re H. E. 8353, J. O. Portwood. Wrote P. M., Friend, Ore., forwarding spas. to be served. Wrote W. I. Wheeler, Friend, Ore., inclosing copy of spa. served on him and returned to this office by mistake. Wrote letter to P. M. at Richmond, Ore., transmitting fee for serving spa. on W. N. Loughmiller re H. E. 6553, J. Fletcher, \$1.00. Wrote P. M., Condon, Ore., transmitting fee for serving spa. on C. L. Baker & Otis Campbell re H. E. 7341, Luella B. Walm, 2.00, all said entries being in The Dalles land district.

Thursday, December 3, 1908, Headquarters:

Supervising serving spas. in hearings in Dec., Jan., & Feb. Made out spas. for A. C. Baker, P. P. Underwood, J. T. Adkisson, and A. V. Underwood re H. E. 892 of B. E. Selleck, The Dalles district, and transmitted them by letter to R. & R., The Dalles, Ore., for their signature. Interviewed D. W. Reardon and C. O. Rodgers in contest appl. of Rodgers vs. H. E. 14392 C. V. Hare, Portland series. Interviewed H. W. Hull in re contest vs. H. E. 14353 D. A. Elkins, Portland series.

Friday, December 4, 1908, Headquarters:

Supervising serving spas. in hearings for Dec., Jan., & Feb. Transmitted by letter to P. M. at Watson, Ore., spa. to be served on J. T. Adams re H. E. 1180, L. W. Shave, Burns series. Trans. by letter to P. M. at Ione, Ore., spas. to be served on J. and C. Calkins and to P. M. at Heppner, spa. to be served on H. Hale, re H. E. 8101, O. R. Conner, The Dalles series. Trans. to P. M. by letter spas. to be served on F. W. Strongbridge and H. C. Warfield, re H. E. 10520 S. A. Scott, The Dalles. Trans. to P. M. Condon, Ore., by letter, spas. to be served on J. Underwood and C. E. Rickard, re H. E. 8353, J. O. Portwood, The Dalles land district.

Saturday, December 5, 1908, Headquarters:

Supervising the subpoenaing of witnesses in hearings for Dec., Jan., & Feb. Wrote U. S. P. M., Olex, Ore., inclosing voucher for signature. Wrote U. S. P. M., Condon, Ore., inclosing spa. for service on O. W. Propst re H. E. 6600 of W. I. Ebbert, The Dalles series. Wrote Walton and Ness, Eugene, Ore., consent to take deposition of claimant at Vancouver, B. C., re H. E. J. McCrath, Roseburg series. Wrote chief, First Field Div. 1, requesting disqualification of R. R. at Portland, Ore., to hear Draper disbarment proceedings. Also letter to chief in re Lafferty disbarment proceedings. Also letter to chief in re contest application of C. O. Rodgers vs. H. E. 14392, C. V. Hare, Portland district. Made supplemental report on C. C. E. 13101, L. Wodtli, Roseburg series.

Sunday, December 6, 1908, Headquarters.

Monday, December 7, 1908, Headquarters:

Made motion to La Grande land office for deposition in re H. E. 0465 of W. E. Simons. Sent spa for G. W. Applegate and E. Newton in re D. L. E. 118 of J. R. Hayworth, Burns dist., to Payette, Ida. for service. Made motion for deposition of A. Kennedy in re H. E. 2485 of J. W. Tucker, Burns dist. Trans. to R. R. Burns land office motion to take dep. S. W. Norton in re D. L. E. 188 J. R. Hayworth, Burns dist. Wrote letter to S. W. Norton notifying him of such deposition.

Tuesday, December 8, 1908, Headquarters:

Wrote Forest Service in re H. E. 8922 B. E. Selleck, The Dalles dist. Motion for dep. E. C. Elkins re H. E. 11002 F. Shambau, The Dalles dist. with letter. Wrote Forest Service in re M. E. 260 K. J. Martin, La Grande dist. Wrote F. Wunder re T. & S. 5210 J. H. Parker, La Grande dist. Made spa for F. Wunder, sr., F. Wunder, jr., J. Wynant, and C. W. Keizur in re T. & S. 5210 J. H. Parker, La Grande dist. Motion for dep. H. Hale re H. E. 8617 E. Hansen, La Grande dist. with letter. Wrote H. Hale withdrawing spa re H. E. 8617 E. Hansen, La Grande dist. Wrote P. M., Monument re H. E. 8617 E. Hansen. Attending to serving and filing spas in hearings.

Wednesday, December 9, 1908, Headquarters:

Wrote P. M., Long Creek, Ore., for address E. O. Woodall. Wrote P. M., Hamilton, Ore., for correction in voucher. Motion for dep. O. W. Propst re H. E. 6600 W. I. Ebbert, The Dalles dist., with letter. Motion for dep. J. Underwood re H. E. 8352 J. O. Portwood, The Dalles dist. with letter. Wrote F. J. Egan re H. E. 8352 J. O. Portwood, The Dalles series. Interviewed G. Herrin in re application of S. N. Herrin for leave of absence. Looking up land decisions in Indian allotment cases. Filing and issuing spas for hearings in land cases.

Thursday, December 10, 1908, Headquarters:

Attended taking of dep. of Andrew Kennedy re H. E. 2485 J. W. Tucker, Burns land district. Made typewritten copy of same. Wrote M. Jepson re H. E. 9625 B. Mackin. Filing returns on spas in hearings for January & February.

Friday, December 11, 1908, Headquarters:

At U. S. Clk. Courts Office getting data re Hyde & Benson et al. suits. Made report thereon to G. L. O. Wrote Forest Service re H. E. 11188 F. L. Willis—10092 R. J. Thompson, 12666 N. H. Boley. All La Grande, Ore., series. Wrote G. L. O. in re same cases. Attending to returns on subpoenas in hearings for Jan. & Feb.

Saturday, December 12, 1908, Headquarters:

Attended taking deposition of Wm. Seese in re H. E. 16176. C. Burn & 16142 D. W. McGill, Portland series. Paid for transportation of Monarch typewriter from U. S. atty. office to U. S. custom-house, .25.

Sunday, December 13, 1908, Headquarters:

Wrote postmaster at Kingsley in re H. E. 10520, S. A. Scott The Dalles district.

Monday, December 14, 1908, Headquarters:

Wrote Forest Service re H. E. 10525, 11937, 5943, 15248, 12734, 10861, 9326, 14014, all La Grande series, by separate letters. Letter to P. M. McKay, Ore., re H. E. 341. Letter to P. M., Hamilton, Ore., re H. E. 8284. Letter to P. M., Nye, Ore., re H. E. 9902. Letter P. M., Elgin, Ore., re H. E. 11365. Letter P. M., Hardman, Ore., re H. E. 12734, all La Grande series. Subpoenaed witnesses re H. E. 14902. Sent letter re same to R. & R., La Grande. Subpoenaed witness re H. E. 8865. Sent letter re same to R. & R., La Grande, Ore. Wrote R. & R., La Grande, re H. E. 11365. Wrote F. W. Benson, re Inland Irrigation Co. Subpoenaed witnesses re D. L. E. 370. Com. to take dep. J. H. Alexander re (cash) H. E. 600, 793, 692, 341, 762. Come to take dep. J. H. Alexander re H. E. 11365, W. K. West re H. E. 12734, H. F. Higby re H. E. 14902. Wrote R. & R. La Grande, Ore., re all said depositions.

Tuesday, December 15, 1908, Headquarters:

Motion for dep. J. H. Alexander re Umatilla cash entries 599, 298, 717, 610, 691, 636, 722, 723, 318, 810, 611, 823, 491, 600, 793, 692, 341, 762, & H. E. 11365. All La Grande series. Wrote letter to G. L. O. for orig. advts. in Umatilla cases. Filing returns on subpoenas in hearings for Jan. & Feb.

Wednesday, December 16, 1908, Headquarters:

Wrote P. M., Astoria, Ore., for address F. C. Reed. Wrote Forest Service for data re H. E. 4173, Roseburg series. Wrote Forest Service for returns on subpoenas sent for service. Subpoenaed H. Pearce, re T. & S. S. S. 8227, Roseburg series, trans. same to Roseburg L. O. for signature. Wrote H. Pearce recalling spa. re T. & S. S. S. 8227. Wrote M. J. Anderson re T. & S. S. S. 8227. Wrote R. & R., Roseburg, re T. & S. S. S. 6395, Roseburg district. Notified J. H. Alexander of date of depositions in Umatilla cases.

Thursday, December 17, 1908, Headquarters:

Wrote J. O'B. Scobey re H. E. 11841, Portland dist. Wrote Forest Service re Siletz homestead contests. Wrote P. M., Ritter, Ore., re H. E. 8865, La Grande dist. Wrote P. M., Pendleton, re H. E. 14902. Wrote Forest Supervisor, Medford Ore., re H. E. 11611, Roseburg series. Wrote Forest Supervisor, Medford, Ore., re H. E. 12267, Roseburg series. Wrote Forest Supervisor, Roseburg, Ore., re subpoenas sent him to serve. Filing returns of spas. for hearings in Jan. & Feb.

Friday, December 18, 1908, Headquarters:

Conferring with C. R. Pierce, Dist. Land Office, Forest Service, in re hearings in forest cases before local land offices. Furnished Pierce with list of cases, dates of hearings, and places of hearing in all forest cases before the local land offices. Wrote P. M. at Hardman for return on spa. of S. A. Harris.

Saturday, December 19, 1908: Headquarters:

Made out spa. for J. Miller, A. Blom, & W. E. Lace, re H. E. 13735, A. Wilt. trans. same to P. M. at Rocca for service. Made spa. for L. C. Mowry re H. E. 13735. A. Wilt, & trans. same to P. M. at Siletz, Ore., for service. Spa. for Zimer Hinshaw re H. E. 14965 to P. M. at Falls City, Ore., for service. Spa. for M. L. Thompson, G. R. Love, & A. N. Robinson re H. E., R. Paul, to P. M., Falls City, for service. Wrote W. C. Bennett, Siletz, Ore., re H. E. 14395, W. H. Butz. All in Portland district.

Sunday, December 20, 1908, headquarters:

Made out & trans. to P. M. at Dallas, Ore. Sp. A. for C. G. Coad & A. Uglow. H. E. J. H. Dunn, Portland series.

Monday, December 21, 1908, headquarters:

All Portland, Ore., land district.

Sp. A. Z. Henshaw re H. E. J. H. Dunn to P. M. Falls City for service. Sp. J. Frey re H. E. 13221 L. W. Williams to P. M. Newport, Ore., for service. Sp. F. H. McDonald re H. E. 13221 L. W. Williams to P. M. Newport, Ore., for service. Sp. A. E. C. J. Smith re H. E. 13221 L. W. Williams to P. M. Newport, Ore., for service. Sp. A. P. Chatterton re H. E. 13221 L. W. Williams to P. M. Newport, Ore., for service. Trans. all to Newport, Ore., for service. Telegram to La Grande Land Office, Sp. A. G. E. Lyne & J. T. Dickens re H. E. 14371 W. Bones to P. M. at Kernville Ore. Sp. A. A. Uglow, C. G. Coad, C. O. Tennis re H. E. 7826, J. Crowther, to P. Dallas, Ore. Letter to P. M. Nye, Ore., re Sp. As. Sp. A. C. O. Tennis et al. re H. 14361—to P. M. Dallas, Ore. Sp. A. Z. Henshaw re H. E. 14361 G. B. Smith-P. M. Dallas, Ore., for service.

Tuesday, December 22, 1908, Headquarters:

Letter to W. Portwood re H. E. 8353, The Dalles series. Motion oral dep. A. Lafferty & J. Moesi re H. E. 14965. Sent registered notice to B. F. Jones, At Stamp in re H. E. 13221, \$.08. Registered notice to A. W. Lafferty re H. E. 1496 stamp, \$.08. Motion for Dep. A. W. Lafferty re H. E. 7826. Notice to Platt & Platt Attys. Motion for Dep. A. W. Lafferty re H. E. 14361. Registered notice to W. Holmes, Atty., \$.08. Motion for Dep. A. W. Lafferty re H. E. 14032. W. Wright Reg. notice to G. W. Strong, \$.08. Motion for Dep. A. W. Lafferty re H. E. 1321 L. W. Williams. All Portland series. Wrote W. A. Wilkinson, The Dalles, Ore. re depositions. Transm. Sp. A. for Ore. Propt. re H. E. 8353, The Dalles series P. M. at Vale, Ore.

Wednesday, December 23, 1908, Headquarters:

Conferring with Forest Supervisor A. S. Cahoon & Law Examiner Pierce in re hearings in Siletz cases. Wrote F. C. Bramwell re H. E. 8617. Wrote Bramwell re H. W. E. Simmons. All La Grande series. Telephone message to U. S. Land Office The Dalles, Ore., \$.60. Wrote Arcadia—W. re address of E. O. Woodall. Look up authority for service of notice of oral depositions. Wrote L. R. Glavis re H. Bramwell. Transm. Sp. A. for C. C. Elkins to P. M. at Buena Vista, Ore., re H. 11002 The Dalles dist.

Thursday, December 24, 1908, Headquarters:

Motion for dep. W. F. Allen re H. E. 14032, Portland series, Sp. A. witness H. E. 341-762 (cash) to P. M. McKay, Ore. At U. S. land offices getting signatures R. & R. to subpoenas, commissions, etc., in land cases. Checking over hearings for January & Feb., arranging subpoenas, etc.

Friday, December 25, 1908, Headquarters, Xmas.

Saturday, December 26, 1908, Headquarters:

Wrote P. M., Ritter, Ore., re H. E. 8865, L. G. district. Sp. A. A. W. Lafferty re H. E. 14032, W. Wright 13221, L. W. Williams 7828, J. Crowther 14361, G. B. Smith 14965, W. H. Butz personally. Sp. A. J. Mossi re H. E. 14965, W. H. Butz personally, all in Portland, Ore., series. Served notice personally on A. W. Lafferty, atty., re dep. of J. Mossi re H. E. 14965, W. H. Butz. Wrote G. H. Marsh, U. S. commr., re taking of depositions in above cases.

Sunday, December 27, 1908, Headquarters:

Wrote L. R. Glavis re F. C. Bramwell, transm. to R. & R., Roseburg, Ore., & to Walton & Ness, atty. for defense. Cross-interrogatories re T. & S. entry J. C. McGrath, Roseburg dist. Made duplicate copy of same. Wrote P. M., Vale, Ore., re O. W. Propst, Sp. A. Wrote R. P. Cowgill re T. & S. 5210, J. H. Parker, La Grande district.

Monday, December 28, 1908, Headquarters:

Motion for oral dep. W. F. Allen re H. E. 13221; same re H. E. 14032; Sp. A. Z. Hinshaw re H. E. 7826; Sp. A. Wm. McHardy re H. E. 7826; Sp. A. H. Holman re H. E. J. H. Dunn; Sp. A. C. O. Tennis re H. E. 14361; Sp. A. W. V. Fuller re H. E. 14361; Sp. A. P. Chatterton re H. E. 13221; Sp. A. W. F. Allen re H. E. 14032 & 13221; all Portland series.

Tuesday, December 29, 1908, Headquarters:

Sent registered letter notice to B. F. Jones re H. E. 13221, stamp, \$.08. Sent registered letter notice to Geo. Strong re H. E. 14032, stamp, .08. Wrote Albert Wilt re his H. E. 13735. Applied for com. to take depositions re H. E. 13735. Sp. A. for Lee Wade re H. E. P. H. Sroat. Sp. A. for Robt. Ironson re H. E. P. H. Sroat. Trans. S. A.'s to postmasters at Toledo & Siletz, Ore., resply. Sp. A. A. W. McFarland re H. E. 7895, The Dalles dist. All except H. E. 7895, The Dalles, Ore., being in Portland land dist.

Cases examined (misc.), good, 1. Cases reported (misc.), good, 1. Letters, 6.

Wednesday, December 30, 1908, headquarters:

Wrote L. R. Glavis re H. E. 16184, F. P. Hoy, Portland series. Wrote G. E. Lyne re H. E. 14731, W. Bones, Portland series. Wrote W. H. Holmes re H. E. 14361, G. B. Smith, Portland series. Sp. A. A. L. Stephens re H. E. 14371, W. Bones, Portland series. Attended taking deposition of Lewis F. Mason re T. & S. 2223, The Dalles series.

Thursday, December 31, 1908, headquarters:

Testified by deposition re H. E. 10520, S. A. Scott, The Dalles, Ore. Sp. A. W. F. Allen re H. E. 14032, Portland series. Sp. A. Wm. McHardy re H. E. 14377. Sp. A. B. Hinshaw re H. E. 14377. Sp. A. C. O. Tennis & W. V. Fuller re H. E. 14361, G. B. Smith. Sp. A. P. Chatterton re H. E. 13221. Sp. A. W. F. Allen re H. E. 13221. Sp. A. H. Holman re H. E. J. H. Dunn, all Portland land dist.: trans. said Sp. A.'s by letter to respective postmasters. Wrote E. C. Elkins re H. E. 11002, F. Shambaue, The Dalles series.

Daily reports, January, 1909.

[All signed "Horace Tillard Jones, special agent,"]

Friday, January 1st, 1909, headquarters:

Sp. A. for W. A. McClintock re H. E. 14731, Portland series. Sp. A. for E. W. Morrison re H. E. 14731, Portland series. Sp. A. for J. Stevens re H. E. 14731, Portland series. Sp. A. for A. L. Stevens re H. E. 14731, Portland series. Transm. Sp. A. for Perry Blue to P. M. at Scio, Ore. Wrote B. Willson re H. E. 11002, The Dalles district. Wrote E. C. Elkins re H. E. 11002, The Dalles district.

Saturday, January 2, 1909, headquarters:

Gave deposition re H. E. G. A. Dane, The Dalles series. Took depositions A. W. Lafferty re H. E. 14032-7828, 13221-14965, 14361. Took deposition Joseph Mossi re H. E. 14965. All in Portland, Ore., series.

Sunday, January 3, 1909, headquarters:

Paid Powers & Estes, Portland, Ore., for one bottle fountain pen ink and holder for same, for use in field, \$.95. Arranging Sp. A.'s, checking witnesses served, and arranging papers in hearings for Jan. & Feb., 1909.

Monday, January 4, 1909, headquarters to Dallas, Ore.:

Lv. Portland, Ore., 7.40 a. m.; ar. Dallas, Ore., 11.05 a. m. via S. P. R. R.: fare for round trip, \$3.80; covered by T. R. 1517. One street car fare from hotel to depot in Portland, Ore., \$.05; to Pacific Tel. & Tel. Co., phone message from Dallas, Ore., to W. H. Holmes, Salem, Or., .25; wrote two letters to W. C. Bennett & one to W. Wright in re H. E. 14965, Portland series; registered each letter; three stamps @ .05 each, \$.24. Conducting hearing in U. S. vs. H. E. 14442, R. Paul, Portland, Ore., series.

924 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

Tuesday, January 5, 1909, Dallas, Ore.:

Conducting hearing in U. S. vs. H. E. 14377, Joseph Crowther, Portland, Ore., series.

Wednesday, January 6, 1909, Dallas, Ore.:

Conducting hearing in U. S. vs. H. E. 14388, James H. Dunn, Portland, Ore., series.

Thursday, January 7, 1909, Dallas, Ore.:

Conducting hearing in U. S. vs. H. E. 14985, W. H. Batz, Portland, Ore., series.

Friday, January 8, 1909, Dallas, Oregon:

Interviewing witnesses in re H. E. 14361, Q. B. Smith. Awaiting appearance of attorney in re said Smith hearing. Case continued to Jan. 9th, 1909. Sent telegram via W. U. T. Co. to J. Frey, Newport, Ore., \$.20; sent telegram via W. U. T. Co. to F. H. McDonald, Newport, Ore., .20; sent telegram via W. U. T. Co. to P. Chatterton, Newport, Ore., .20; sent telegram via W. U. T. Co. to E. C. J. Smith, Newport, Ore., .20; sent special delivery letter to J. Frey, Newport, Ore., stamp, .10; sent special delivery letter to E. C. J. Smith, Newport, Ore., stamp, .10; sent special delivery letter to P. Chatterton, Newport, Ore., stamp, .10; said letters and telegrams being in re H. E. 13221, Portland series.

Saturday, January 9, 1909, Dallas, Ore., to Portland:

Conducted hearing in re U. S. vs. Q. B. Smith, H. E. 14361, and in re U. S. vs. A. Z. Knobel, H. E. 15741, Portland series. Lv. Dallas, Ore., 2.20 p. m. on return ticket via S. P. R. R.; ar. Portland, Ore., 5.50 p. m. One street car fare from depot to hotel in Portland, Ore., \$.05.

Sunday, January 10, 1909, headquarters.

Monday, January 11, 1909, hearing at headquarters.

Conducted hearing before register and receiver in case of D. McEachern vs. U. S., involving his H. E. 11223. Conferring with Forest officers concerning pending hearings on lands in Forest Reserves.

Tuesday, January 12, 1909, headquarters:

Conferring with R. A. Miller, atty. for A. Z. Knobel, H. E. 15741, as to taking depositions. Conferring with A. I. Moulton, atty. for P. H. Sroat, H. E. 11841, as to taking deposition certain witnesses. Conferring with Ralph Coan, atty. for J. M. Wilson, H. E. 9408; W. J. Shay, 16203; C. Burn, 16176; and D. W. McGill, 9891, Portland land district. Conferring with Sanderson Reed in re H. E., C. D. Ward, The Dalles district.

Wednesday, January 13, 1909, Portland to Toledo, Ore.:

Lv. Portland, Ore., 8.15 a. m.; ar. Toledo, Ore., 6.40 p. m. via S. P. and C. & E. R. R. Fare by T. R. 1518 (\$5.45); no return ticket. One street-car fare in Portland, Ore., \$.05.

Thursday, January 14, 1909, Toledo, Ore.:

Conducted hearing in U. S. vs. L. W. Williams, H. E. 13221. Started hearing in U. S. vs. E. Olson, H. E. 16473 at 7.30 p. m.

Friday, January 15, 1909, Toledo, Ore.:

Conducting hearing in U. S. vs. E. Olson, H. E. 16473, until midnight.

Saturday, January 16, 1909, Toledo, Ore.:

Finished hearing in U. S. vs. E. Olson at 12.15 a. m. Conducted hearing in U. S. vs. Wellington Wright, H. E. 14032, and completed same.

Sunday, January 17, 1909, Toledo, Ore.:

Making estimate of expenses in hearings at Toledo, Ore. Paid W. U. T. Co., telegram to A. I. Moulton, Portland, Ore., \$.20. Prepared motion for oral deposition of G. E. Leach, F. Yack, and C. Shortridge, re H. E. 15741, A. Z. Knobel. Prepared oral deposition or motion for same for E. Hirsch, P. H. Raymond, and A. M. Gilbert re H. E. 11841, P. H. Sroat, and transmitted same with letter to R. & R., Portland, Ore. Wrote C. R. Pierce, Forest Service, re H. E. 15741, A. Z. Knobel. Wrote W. H. Holmes, re H. E. 14361, Q. B. Smith.

Monday, January 18, 1909, Toledo, Oregon:

Paid R. A. Arnold, Toledo, Ore., for serving spa. on L. Wade, re H. E. 11841, \$1.00; paid G. E. Lyne, Kernville, Ore., for serving spa. on E. W. Morrison & J. Stephens, re H. E. 14032, \$2.00; paid G. E. Lyne, Kernville, Ore., for serving spa. on G. E. Lyne & J. T. Dickens, re H. E. 14731, \$2.00. All Portland, Ore., series. Awaiting appearance of claimant & witnesses re H. E. 11841, Portland series.

Tuesday, January 19, 1909, Toledo, Ore.:

Conducted hearing U. S. vs. H. E. 14731. Made motion for continuance re H. E. 11841, to Feb. 3, 1909.

Wednesday, January 20, 1909, Toledo, Ore.:

Conducted hearing in U. S. vs. H. E., W. L. Johnson. Sent telegram via W. U. T. Co. by W. E. Peterson, agent, Toledo, Ore., to A. I. Moulton, Portland, Ore., re H. E. 11841, \$.20.

Thursday, January 21, 1909, Toledo, Ore., to Portland, Ore.:

Lv. Toledo, Ore., 7.15 a. m. via S. P. & C. & E. R. R. on return ticket; ar. Portland, Ore., 5.30 p. m. One street car fare in Portland, Ore., \$.05.

Friday, January 22, 1909, Headquarters:

Attending to taking of deposition A. W. Morgan re H. E. 16142, D. W. McGill & H. E. 16176, C. Burn, Portland, Ore., series.

Saturday, January 23, 1909, Headquarters:

Conducted taking of deposition A. W. Morgan re H. E. 16203, W. J. Shea, and C. E. 9408, J. M. Wilson, Portland, Ore., series.

Sunday, January 24, 1909, headquarters.

Monday, January 25, 1909, headquarters:

Conducting taking of deposition W. J. Stillwell re H. E. 16142 & C. C. E. 9408, Portland series. Wrote separate letters to chief field div. 1 in following cases: H. E. 13735, A. Welt; W. L. Johnson; 14731, W. Bones; 12841, P. Sroat; 14032, W. Wright; 16473, E. Olsen; 13221, L. W. Williams; 15741, A. Z. Knobel; 14361, L. B. Smith; 14965, W. H. Butz; 14388, J. H. Dunn; 14377, J. Crowther; 14442, R. Paul, all in Portland, Ore., land district; 11223, D. McEachern, Portland, Ore., land district.

Tuesday, January 26, 1909, headquarters:

Completed taking deposition of W. J. Stillwell, re H. E. 9408 J. M. Wilson. Conducting hearing in U. S. vs. J. M. Wilson, H. E. 9408 Cash. Portland, Ore., series.

Wednesday, January 27, 1909, headquarters:

Conducting hearing in U. S. vs. J. M. Wilson, H. E. (C. C. E.) 9408. Portland, Ore., series.

Thursday, January 28, 1909, headquarters:

Conducting hearing in U. S. vs. J. M. Wilson, C. C. E. 9408, Portland, Ore, series.

Friday, January 29, 1909, headquarters:

Conducting hearing in U. S. vs. J. M. Wilson, C. C. E. 9408, Portland, Ore., series. Made out application for commission to take oral dep. witnesses re H. E. 15741, A. Z. Knobel & H. E. W. L. Johnson, Portland series, and served copy on R. A. Miller, atty. for both defts.

Saturday, January 30, 1909, headquarters:

Conducting hearing re H. E. 16203, W. J. Shay, Portland, Ore., series. Paid following postmasters for serving sps. in hearings: C. G. Coad, Dallas, Ore., re H. E. 14361, two witnesses, Portland, Or., series, \$2.00; C. G. Coad, Dallas, Ore., re H. E. 14377, one witness, Portland, Or., series, \$1.00; C. G. Coad, Dallas, Ore., re H. E. 14388, one witness, Portland, Or., series, \$1.00; C. G. Coad, Dallas, Ore., re H. E. 14388, one witness, Portland, Or., series, \$1.00; C. G. Coad, Dallas, Ore., re H. E. 14377, one witness, Portland, Or., series, \$1.00; C. G. Coad, Dallas, Ore., re H. E. 14388, one witness, Portland, Or., series, \$1.00; M. L. Thompson, Falls City, Ore., re H. E. 14361, one witness, Portland, Or., series, \$1.00; M. L. Thompson, Falls City, Ore., re H. E. 14442, one witness, Portland, Or., series, \$1.00; M. L. Thompson, Falls City, Ore., re H. E. 14388, one witness, Portland series, \$1.00; M. L. Thompson, Falls City, Ore., re H. E. 14442, one witness, Portland series, \$1.00; M. L. Thompson, Falls City, Ore., re H. E. 14442, one witness, Portland series, \$1.00; M. L. Thompson, Falls City, Ore., re H. E. 14388, one witness, Portland series, \$1.00; M. L. Thompson, Falls City, Ore., re H. E. 14377, one witness, Portland series, \$1.00; E. Gellanders, Meacham, Ore., re H. E. 318, one witness, La Grande series, \$1.00; E. Gellanders, Meacham, Ore., re H. E. 341-762, one witness, La Grande series, \$1.00; J. T. Brown, Pendleton, Ore., re H. E. 722, one witness, La Grande series, \$1.00; J. B. Stanton, Nye, Ore., re H. E. 9902, three witnesses, La Grande series, \$3.00; J. H. Williams, Hermiston, Ore., re H. E. 14440, three witnesses, La Grande series, \$3.00; H. G. Carteel, Pilot Rock, Ore., one witness, H. E. 636, La Grande series, \$1.00; H. G. Carteel, Pilot Rock, Ore., one witness, H. E. 611, La Grande series, \$1.00; H. G. Carteel, Pilot Rock, Ore., one witness, H. E. 600, 793, La Grande series, \$2.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 692, La Grande series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 341, 762, La Grande series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 491, La Grande series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 623, La Grande series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 810, La Grande series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 341, 762, La Grande series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 810, La Grande series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 318, La Grande, Ore., series, \$1.00; J. A. Hubbard, McKay, Ore., one witness, H. E. 722, La Grande, Ore., series, \$1.00; W. S. Hall, Siletz, Ore., one witness, H. E. 12841, Portland, Ore., series, \$1.00; F. H. Lane, Newport, Ore., four witnesses, H. E. 13221, Portland, Ore., series, \$4.00; F. Wunder, sr., Hereford, Ore., four witnesses, T. & S. 5210, La Grande, Ore., series, \$4.00; total, \$47.00.

Sunday, January 31, 1909, headquarters:

Made out monthly account for January, 1909.

Daily reports, February, 1909.

[All signed "Horace Tillard Jones, special agent."]

February 1st, 1909, headquarters:

Conducting hearing at U. S. Land Office in re U. S. vs. H. E. 16203 W. J. Shay, Portland, Ore., series.

Tuesday, February 2, 1909, headquarters:

Conducting hearing at U. S. Land Office, re U. S. vs. H. E. 16203 W. J. Shay, Portland series.

Wednesday, February 3, 1909, headquarters:

Conducting hearing at U. S. Land Office, re U. S. vs. H. E. 16176 C. Beem, Portland, Ore., series.

Thursday, February 4, 1909, headquarters:

Conducting hearing at U. S. Land Office, re H. E. 16176, C. Beem, Portland, Ore., series.

Friday, February 5, 1909, headquarters:

Conducting hearing at U. S. Land Office, re U. S. vs. H. E. 16142 D. W. McGill, Portland, Ore., series. Telegram via W. U. T. Co. to W. K. West, Pendleton, Ore., .25

Saturday, February 6, 1909, headquarters:

Conducting hearing at U. S. Land Office, re U. S. vs. H. E. 16142 D. W. McGill, Portland, Ore., land district.

Sunday, February 7, 1909, headquarters to Pendleton, Ore.:

One street car fare from hotel to depot, Portland, Ore., \$.05. Lv. Portland, Ore. 9.15 a. m. via O., R. & N. Co., ar. Pendleton, Ore., 5.15 p. m., fare, T. R. 1520 (\$6.85), no rebate for round trip. Seat in Pullman from Portland, Ore., to Pendleton, Ore. 1.25. Fee to porter between Portland & Pendleton, Ore., .25.

Monday, February 8, 1909, Pendleton, Ore.:

Conducting hearing in re U. C. E. 599 A. B. C. Eggerth. Signed stipulation re U. C. E. 717 and 474 of Emma Wright. Made motion for dismissal of case in re U. C. E. 691 L. M. McDonald, on account of default of deft.

Tuesday, February 9, 1909, Pendleton, Ore.:

Awaiting appearance of deft. in re U. S. v. U. C. E. 610 Alice Gard. Stipulated as to continuance until Feb. 11-09.

Wednesday, February 10, 1909, Pendleton, Ore.:

Conducting hearing in re U. S. vs. U. C. E. 636 of T. Campbell.

Thursday, February 11, 1909, Pendleton, Ore.:

Conducting hearing re U. S. vs. U. C. E. 692 Wm. Roberts and 722 U. C. Evarts.

Friday, February 12, 1909, Pendleton, Ore.:

Conducting hearing re U. C. E. 318 J. J. McConnell, U. C. E. 610, Alice Gard & U. C. E. 723 A. Hinkle.

Saturday, February 13, 1909, Pendleton, Ore.:

Conducting hearing re U. C. E. 611 Harold Stewart; conducting hearing re U. C. E. 691 Lemuel Donald; conducting hearing re U. C. E. 600, 793 C. C. Reinhardt. Paid W. U. T. Co. telegram from L. R. Glavis, \$.20. Paid W. U. T. Co. telegram to L. R. Glavis, \$.20. Paid Pacific Telephone & Telegraph Co. 'phone message to Y. T. Williamson, La Grande, Ore., \$.40.

February 14, 1909. Sunday, Pendleton, Ore.:

Telegram from L. R. Glavis, Portland, Ore., \$.20. Wrote chief ref. letters re following Umatilla cash entries: 599, A. B. C. Eggerth; 610, A. Gard; 636, T. Campbell; 722, V. C. Evarts; 318, J. J. McConnell; 723, A. Hinkle; 692, W. Roberts; 611, H. Stewart; 691, L. M. McDonald; 600, 793, C. C. Reinhardt; 341, 762, J. H. Walker. Also letter re H. E. 11168, F. L. Willis. Also separate and single letter re U. C. E. 298, 473, H. M. La Dow; 810, 775, P. M. O'Brien; 717, 474, E. Wright. Letters, 13.

Monday, February 15, 1909. Pendleton, Ore.:

Wrote post-office at Nye, Ore., re H. E. 14902, T. B. Hopper, & H. E. 9902, C. Hays. Wrote post-office, Echo, Ore., forwarding spas. re D. L. E. 313, H. J. Bean. Wrote post-office at McKay, Ore., re U. C. E. 692, Wm. Roberts. Wrote R. & R., La Grande re H. E. 9625, B. Mackin, & 14439, V. O. Robinson, & 14440, G. R. Robinson. Wrote D. G. Smith re H. E. 14902, T. R. Hopper, registered stamp, \$.08. Wrote B. Mackin re H. E. 9625. Trying to locate and interview M. M. Fix, re H. E. 8208, H. Car. Registered letter to chief, \$.08. Took afdvt. C. R. Steller re H. E. 14529, J. A. Jones. All said entries being in La Grande land district. Interview, 1; letters, 6.

Tuesday, February 16, 1909. Pendleton, Ore.:

Conducting taking of deposition J. W. Ellis, re H. E. 11937, J. D. Moyers. Interviewed Pearl Wilson, Pendleton, Ore., re H. E. 14529, J. A. Jones. Took afdvt. F. Duprat re H. E. 14529, J. A. Jones. Conferring with J. A. Fee re stipulation in ca

of U. C. E. 823, O. C. Van Orsdall, & 491, P. L. Van Orsdall. Paid W. U. T. Co. telegram to F. C. Bramwell re H. E. 11168, \$0.20. Said entries all being in La Grande, Ore., land district. Affidavit, 1; interview, 1.

Wednesday, February 17, 1909, Pendleton, Ore.:

Cases examined: Entries, good, 2; bad, 1. Affidavit, 1; interviews, 4.

Thursday, February 18, 1909, Pendleton, Oregon:

Conducted hearings in re U. C. E. 823, O. C. Van Orsdall, & U. C. E. 491, P. L. Van Orsdall, La Grande, Oregon, land district.

Friday, February 19, 1909, Pendleton, Oregon:

Lv. Pendleton, 8.30 a. m. Made field exam. U. C. E. 299, W. Collier. Interviewed Al Barnes, Ed. Myers, & Mr. Fisher in re said U. C. E. 299 "doubtful." Returned to Pendleton at 5.30 p. m. Team hire, \$5.60. To W. U. T. Co., telegram from L. R. Glavis, \$0.20. To W. U. T. Co., telegram to L. R. Glavis, \$0.20.

Saturday, Feby. 20, 1909, Pendleton, Ore.:

Conducting hearing re H. E. 11168 F. L. Willis, D. L. E. 370. R. J. Slater & H. E. 11236 N. Howland. Took advt. Dell Davis re his U. C. E. 300. All entries in La Grande, Ore., land district.

Sunday, Feby. 21, 1909, Pendleton, Oregon. Sunday.

Monday, Feby. 22, 1909, Pendleton, Ore.:

Wrote separate letters to chief field div. in re H. E. 12841—P. H. Trout—Corning & Corning—H. E.—F. P. Hoy—H. E. 16176 C. Burn, H. E. 16142 D. W. McGill, all Portland series. U. C. E. 823 O. C. Vanorsdall, U. C. E. 491 P. L. Vanorsdall, U. C. E.—P. M. O'Brien, H. E. 11168 F. L. Willis, D. L. E. 370 R. J. Slater. All La Grande, Ore., series.

Telephone message via P. S. T. T. Co. to B. H. Fox, Pilot Rock, Ore., \$.25. Took advt. John Cross re H. E. 14529 J. A. Jones, La Grande series.

Tuesday, Feby. 23, 1909, Pendleton, Ore.:

Conducting hearing re D. L. E. 313 H. J. Bean.

Wednesday, February 24, 1909, Pendleton, Ore.:

Conducting hearing re D. L. E. 313 H. J. Bean.

Thursday, February 25, 1909, Pendleton, Ore.:

Conducting hearing re D. L. E. 313 H. J. Bean, La Grande series. Continued case over to March 5, 1909. Took advt. T. D. Myers corroborated by A. I. Barnes & Ed. Myers, re U. C. E. 299 Wm. Collier, La Grande series. W. U. T. Co. telegram to L. R. Glavis, \$.23. W. U. T. Co. telegram from L. R. Glavis, \$.26. W. U. T. Co. telegram to Charles Hays, \$.31.

Friday, February 26, 1909, Pendleton, Ore.:

Lv. Pendleton, Ore., 8 a. m.; ar. Hermiston, Ore., 9.30 a. m., via O. R. & N. Co.; fare, no rebate for round trip, \$1.15. Conducting hearing in re U. S. v. G. R. Robinson & O. O. Robinson. H. E. 14439 & 14440, La Grande series, respectively.

Saturday, February 27, 1909, Pendleton, Ore.:

Lv. Hermiston, Ore., 1.20 a. m.; ar. Pendleton, Ore., 3 a. m., via O. R. & N. Co.; fare, \$1.15. Conducting hearing re H. E. 14902, T. R. Hopper, L. G. series. Continued same over to Mar. 2, 1909.

Sunday, February 28, 1909, Pendleton, Ore.:

Took advt. B. H. Fix, re H. E. 8208, H. F. Carr, La Grande series. Made out expense account for February. Paid following vouchers: Squire Farrar, Salem, Ore., 3 wit. re H. E. 12841, Portland series, \$3.00. Robt. Walker, Bandon, 2 wit. re H. E. 13221 L. W. Williams & 14032 W. Wright, \$2.00. J. F. Brown, Pendleton, re U. C. E. 723, D. L. E. 370, & H. E. 14902, all La Grande series, \$7.00. Mrs. J. A. Hubbard, one witness re U. C. E. 610 La Grande, Ore., \$1.00. W. C. Bennett, Siletz, Ore., 2 wit. re H. E. 14965, W. H. Butz, Portland series.

Daily reports, March, 1909.

[All signed "Horace Tillard Jones, special agent."]

Monday, March 1st, 1909, Walla Walla, Wash.:

Conducting hearing in matter of homestead entry 9625, of Bernard Mackin, La Grande, Oregon, land district.

Tuesday, March 2, 1909, Walla Walla, Wn., to Pendleton, Ore.:

Bus fare at Walla Walla, Wn., depot to hotel & return, \$.25. Lv. Walla Walla, Wn., 9 a. m.; ar. Pendleton, Ore., 11.20 a. m. via O. R. & N. Co., fare (T. R. 1521, \$1.40), No. R. T. Wrote chief Field Div. separate letter in following cases: H. E. 9902, C. Hays; 14440, G. R. Robison; 14439, O. O. Robison; 9625, B. Mackin; 11236, N. Howland. Also single letter embracing following entries: D. L. E. 313 H. J. Bean, U. C. E. 341-762 J. H. Walker, H. E. 14902 T. R. Hopper, H. E. 9625 B. Mackin, all in La Grande series. Wrote re A. W. Lafferty, H. E. 14032 W. Wright, Portland series. Wrote F. C. Bramwell, La Grande, Ore., re blank subpoenas.

Wednesday, March 3, 1909, Pendleton, Oregon:

Completed hearing in case of U. S. vs. H. E. 14902 T. R. Hopper.

Thursday, March 4, 1909, Pendleton, Ore.:

Wrote J. T. Williamson, La Grande, Ore., re H. E. 14440 G. R. Robison. Made letter report to L. R. Glavis re hearing in H. E. 14902 T. R. Hopper. Conducting hearing re Umatilla C. E. 341 J. H. Walker. Wrote L. R. Glavis re hearing in H. E. 11236 N. Howland, all in La Grande, Ore., land district.

Friday, March 5, 1909, Pendleton, Ore.:

Completed hearing re U. C. E. 341 J. H. Walker. Resumed hearing in re D. L. E. 313 H. J. Bean, case continued over from Feb. 25th, 1909. All La Grande, Ore., land district. Wrote C. R. Pierce, Portland, Ore., re L. N. Fletcher. Wrote L. R. Glavis re hearing in U. C. E. 341 J. H. Walker. Wrote G. L. O. in re vouchers for witnesses in J. H. Walker case. Wrote L. R. Glavis, Portland, Ore., in re L. N. Fletcher.

Saturday, March 6, 1909, Pendleton, Ore.:

Resumed hearing in re D. L. E. 313 H. J. Bean, La Grande, Ore., series. Case continued to March 8th, 1909.

Sunday, March 7, 1909, Pendleton, Oregon.

Monday, March 8, 1909, Pendleton, Ore.:

Conducting hearing re D. L. E. 313, of H. J. Bean, La Grande, Oregon, land district.

Tuesday, March 9, 1909, Pendleton, Ore.:

Conducting hearing in re D. L. E. 313, of H. J. Bean, La Grande, Ore., land district.

Wednesday, March 10, 1909, Pendleton, Ore.:

Conducting hearing in re D. L. E. 313, H. J. Bean, La Grande, Ore., district.

Thursday, March 11, 1909, Pendleton, Ore., to La Grande, Ore.:

W. U. T. Co., telegram to J. T. Hinkle, Grangeville, Idaho, .70; afdvt. A. Renard and A. T. Perkins, re U. C. E. of E. L. Smith. Lv. Pendleton, Ore., 5.15 p. m., ar. La Grande, Ore., 9 p. m. via O. R. & N. Co., round trip fare (T. R. 1522, \$4.40). Seat in observation car from Pendleton, Ore., to La Grande, Ore., .50. Total, \$1.20.

Friday, March 12, 1909, La Grande, Ore., to Pendleton, Ore.:

At U. S. Land Office, La Grande, Ore., getting status of homestead T. & S., D. L. E. & unlawful enclosures for field investigation. Wrote L. R. Glavis in re L. S. 14150, Santa Fe Pacific R. R. Co. Wrote L. R. Glavis in re L. S. 8289, E. B. Perrin. Wrote L. R. Glavis in re L. S., W. F. Baker. Wrote L. R. Glavis in re L. S., Frd. Ld. Ent. 45, N. P. R. R. Co. Wrote L. R. Glavis in re L. S., H. E. 15268, J. W. Chapman. Wrote L. R. Glavis in re L. S., H. E. 12480, J. M. Lundy, all in La Grande, Ore., series. Lv. La Grande, Ore., 8 p. m., ar. Pendleton, Or., 11.05 p. m., on return ticket.

Saturday, March 13, 1909, Pendleton, Ore.:

Took afdvt. C. C. Rogers & Albert Moody, both of Pendleton, Ore., in re U. C. E. 330, of E. L. Smith, La Grande, Ore., series.

Sunday, March 14, 1909, Pendleton, Ore.

Monday, March 15, 1909, Pendleton, Ore., to Hermiston, Ore.:

Affidavit, 1.

Tuesday, March 16, 1909, Hermiston, Irrigon, & Umatilla, Ore.:

Cases examined: Entries, 2; misc., 1.

Wednesday, March 17, 1909, Umatilla to Hermiston, Ore.:

Made out schedule of improvements, etc., under Oregon state list No. 3, Carey Act, project under Brownell desert land reclamation project. Lv. Umatilla, Ore., 3.05 p. m., ar. Hermiston, Ore., 3.30 p. m. via O. R. & N. Co., fare (no R. T.) \$20.

Affidavits, 1.

Thursday, March 18, 1909, Hermiston, Ore., to Pendleton, Ore.:

Lv. Hermiston, Ore., 1.20 a. m., ar. Pendleton, Ore., 2.55 a. m. via O. R. & N. Co., on return ticket. At office recorder for Umatilla County, Ore., examining records for conveyances by H. D. Mapes and 12 others of lands under investigation by field service. Conferring with J. T. Hinkle re testimony in hearing vs. D. L. E. 313, of H. J. Bean, La Grande, Ore., dist., from 6 p. m. to 10 p. m.

Friday, March 19, 1909, Pendleton, Ore., to Juniper, Ore.:

Wrote La Grande land office in re H. E. 10832 W. Lindsey. Wrote La Grande land office in re H. E. 14077 R. McCoy. Wrote La Grande land office in re H. E. 16473 F. C. George. Wrote Chief Field Div. re fees to L. N. Fletcher, re H. E. 16473 Portland series. Wrote postmaster at Long Creek, Ore., re whereabouts of one Carter Mitchell. Lv. Pendleton, Ore., 1 p. m. Drove to Juniper, Ore., ar. 6 p. m. Took afdvt. C. C. Medley, re H. E. 10832 W. Lindsey.

Saturday, March 20, 1909, Juniper, Ore., to Helix, Ore.:

Lv. Juniper, Ore., 7 a. m. Took afdvt. T. McDowell, re H. E. 10832 W. Lindsey. Took afdvt. Emery Emerson, re same. Made field exam. H. E. 10832 W. Lindsey: "bad." Ar. Helix, Ore., 7.30 p. m.

Sunday, March 21, 1909, Helix, Ore., to Pendleton, Ore.:

Lv. Helix, Ore., 8.30 a. m. Drove to Pendleton, Ore., arriving at 12.00 m. Team hire, \$11.70.

Monday, March 22, 1909, Pendleton, Ore.:

Appeared before referee pursuant to adjournment in re D. L. E. 313 H. J. Bean. Case continued, on motion of defendant, till Mar. 25, 1909. Conferring with J. T. Hinkle, W. C. Drowley, and O. D. Teel, in reference to rebuttal testimony to be submitted in H. J. Bean case. Wrote L. R. Glavis, in re D. L. E. 313 H. J. Bean, H. E. 10832 W. Lindsey, and U. S. Commissioner John Hailey.

Tuesday, March 23, 1909, Pendleton, Ore.:

Served subpoena on A. Laing, a witness in re D. L. E. 313 Bean. Interviewed R. E. Grossehmig in re above homestead entries, all being in La Grande, Ore., land district. Cases examined: Entries, good 3, bad 1.

Wednesday, March 24, 1909, Pendleton, Ore.:

Affidavits, 5; interviews, 1.

Thursday, March 25, 1909, Pendleton, Ore.:

Resumed hearing in re D. L. E. 313, Henry J. Bean, La Grande, Ore., land district.

Friday, March 26, 1909, Pendleton, Ore.:

Conducting hearing in case of U. S. vs. H. J. Bean, D. L. E. 313, La Grande, Ore., land district.

Saturday, March 27, 1909, Pendleton, Ore.:

Conducting hearing in case of U. S. vs. H. J. Bean, D. L. E. 313, La Grande, Oregon, land district. Government rests. Affidavits, 5.

Sunday, March 28, 1909, Pendleton, Ore.: Sunday.

Monday, March 29, 1909, Pendleton, Ore.:

Took affidavit of M. M. Myers in re U. C. E. 330, E. L. Smith, La Grande, Ore., land district. Conducting hearing in case of U. S. vs. D. L. E. 313 of H. J. Bean, La Grande, Oregon, land district. Defense rests, but reserves right to put photograph of contract in evidence.

Tuesday, March 30, 1909, Pendleton, Ore.:

Affidavits, 2.

Wednesday, March 31, 1909, Pendleton, Ore.:

Made out monthly account for March. Conferring with U. S. Commr. John Hailey in re hearings. Interviews, 2.

Daily reports, April, 1909.

[All signed "Horace Tillard Jones, special agent."]

Thursday, April 1st, 1909, Pendleton, Ore., to Heppner, Ore.

'Phone message to O. D. Teel at Echo, Ore., fr. Pendleton, \$.25. Lv. Pendleton, Ore., 8 a. m.; ar. Heppner, Ore., 5 p. m., via O. R. & N., T. R. 11929; \$2.75; no return ticket.

Friday, April 2, 1909, Heppner, Ore., to Galloway, Ore., and return.

Cases examined: Entries, bad, 1.

Saturday, April 3, 1909, Heppner, Ore.

Cases examined: Entries, bad, 4. Interviews, 1.

Sunday, April 4, 1909, Heppner, Ore.

Sunday.

Interviews, 1.

Monday, April 5, 1909, Heppner, The Dalles, and Portland, Ore.

Lv. Heppner, Ore., 8.10 a. m., ar. The Dalles, Ore., 1.30 p. m. via O. R. & N. Co.; fare, round trip (TR. 11930, \$6.50). Conferring with W. H. Walpole, of Oregon Land and Water Co., in re DLE 302, J. W. Walling; DLE 314, F. B. Holbrook; and 313, E. C. Holbrook, all in The Dalles, Ore., land district. At U. S. Land Office, The Dalles, Ore., getting status of above desert land entries; also of H. E. 11969, S. G. Moorefield, all in The Dalles, Ore., land district. Lv. The Dalles, Ore., at 5.30 p. m., ar. Portland, Ore., 8.50 p. m. via O. R. & N. Co.; round trip fare, \$4.00. Seat in Pullman car, The Dalles, Ore., to Portland, Ore., .50.

Tuesday, April 6th, 1909, Portland, Ore.

Wednesday, April 7, 1909, Portland, Ore.

Conferring with chief first field div. in re hearings in La Grande, Ore., land district. Interviewed J. F. Shields in re D. L. E. 302-313, L. G., Ore., dist.

Thursday, April 8, 1909, headquarters:

Made favorable report to G. L. O. on contest application of M. M. Fix vs. H. E. 8208, H. F. Carr, La Grande, Ore., land district.

Cases reported: Miscellaneous, good, 20; interviews, 1.

Friday, April 9, 1907, Portland, Ore., to Heppner, Ore.:

Transfer baggage from home to depot, Portland, Ore., \$.50. Lv. Portland, Or., 7.45 a. m.; ar. Heppner, Ore., 5 p. m. via O. R. & N. Co. on return tickets. Transfer baggage from depot to hotel, Heppner, Ore., \$.25.

Saturday, April 10, 1909, Heppner, Oregon:

Affidavits, 4; interviews, 2.

Sunday, April 11, 1909, Heppner, Ore.:

Sunday.

Monday, April 12, 1909, Heppner, Ore.:

Wrote chief in re H. E. 8655, mining app. 359, H. E. 12178, D. L. E. 546, H. E. 12296, mining entry 264, H. E. 0727. Wrote P. M. at Elgin, Ore., re H. E. 11862, La Grande, Ore., series. Took statement Mrs. L. E. Cohn re H. E. 9241, which she refused to sign. Interviewed Safrona Neel re H. E. 9241. Searching county records in re H. E. 9241, 14578, 13771, 10691, 8182, 14805, 9742, 8398, 12186, 8530, 15025, 9508, La Grande, Ore.

Tuesday, April 13, 1909, Heppner, Ore.:

Conducting hearing in re H. E. 15597, A. W. Stone, La Grande, Ore., series. Reported same to chief first field div. with all vouchers. To W. U. T. Co. telegram from chief first field div. \$.20. Wrote F. C. Bramwell, register, La Grande land office in re hearings for April.

Wednesday, April 14, 1909, Heppner, Ore.:

Conducting hearing in re H. E. 10751, M. E. Norton, The Dalles, Ore., land district. Made letter report to chief as to said hearing & sent all vouchers & files.

Thursday, April 15, 1909, Heppner, Ore.

Conducting hearing H. E. 8535, L. G. Dist. Took afdvt. Robt. Dexter & of A. S. Burch in re H. E. 8281, E. Stevenson. Reported hearing vs. H. E. 8535 with vouchers & files to Chief Field Div., by letter.

Affidavits, 2; interview, 1; letter, 1.

Friday, April 16, 1909, Heppner to La Grande, Ore.

Baggage from hotel to depot, Heppner, Ore., \$.25. Lv. Heppner, Ore., 8.10 a. m. Ar. La Grande, Ore., 8.30 p. m. via O. R. & N. Co., fare (T. R. 11931—\$5.95). Seat in Pullman from Pendleton, Ore., to La Grande, Ore., .50. Baggage from depot to hotel, La Grande, Ore., .25.

Saturday, April 17, 1909, La Grande, Ore.

Conducting hearing in re mineral application No. 359 Ancora-Ashland Mining and Mineral Co.

Sunday, April 18, 1909, La Grande, Ore.

Reported by letter to chief, hearing in re Min. App. 359. Wrote chief in re deposition of B. L. Wheeler in re Min. App. 264. Wrote chief re hearing on H. E. 11771, J. McCullough. Wrote chief re H. E. 14370, J. R. Shipp. Paid W. U. T. Co. telegram to chief at Portland, Ore., \$.35. Conferring with Henry Ireland, forest supervisor, in re Min. App. 264, Danies M. & M. Co., & also in re H. E. 8655, A. B. Noble, L. G. series.

Monday, April 19, 1909, La Grande, Ore.

Conducting hearing in re H. E. 8655, A. B. Noble. Wrote chief in re deposition of A. P. Cowgill on D. L. E. 546, & T. & S. O. 2727, La Grande, Oregon, series. Western Union Telegraph Co., message from chief, \$.22.

Tuesday, April 20, 1909, La Grande, Ore.:

Conducting hearing in re H. E. 15039. Reported same by letter to chief. Telephone message to postmaster at Elgin, Oregon, \$.15. Telephone message from postmaster at Elgin, Oregon, \$.15. Wrote chief in re hearing in H. E. 8535, The La Grande series. Wrote letter to Frank Saling, Pendleton, Ore., in re heirs of Samuel Page. Wrote U. S. Attorney, Portland, Oregon, in re Nels C. Nelson. Wrote Mrs. Luella Wade, Wallowa, Oregon, in re H. E. 1177, La Grande, Ore., series.

Wednesday, April 21, 1909, La Grande, Ore.

Wrote chief in re deposition R. P. Cowgill at Medford, Ore. Wrote county clerk Canyon City, Ore., re heirs A. H. Davis. Wrote postmaster, Keating, Ore., re subpoena on M. K. Brown. Wrote chief in re F. D. C. 02707, 02427, 02917, asking that patent be withheld.

Thursday, April 22, 1909, La Grande, Ore.

(Duplicate.) Conducting hearing in re H. E. 11862, I. J. Elliott, reported said hearing to chief and sent him all papers and vouchers. Wrote chief in re H. E. 0 J. Powlukowski et al, Portland, Ore., series, 'phone message to Luella Wade, Canyon Ore., including services of messenger, \$.91. Wrote witnesses in re H. E. 14370, La Grande series, advising them of change in date of hearing in said case.

Friday, April 23, 1909, La Grande, Ore.

(Duplicate.) Conducting hearing in re H. E. 11717, J. McCulloch, La Grande series. Interviewed Sam Clay, Al. Graham, Luella Wade, and Ed. Lovely, witnesses, preparatory to placing them on stand.

Saturday, April 24, 1909, La Grande to Joseph, Ore.

Reported hearing in re H. E. 11717, J. McCulloch, to chief. Wrote chief supplemental letter on D. L. C. 02427, J. F. McNaught. Baggage from hotel to depot at La Grande, Ore., \$.25. Lv. La Grande, Ore., 11.15 a. m., ar. Joseph, Ore., 6. p. m., fare via O. R. & N. R. R. (T. R. 11932, \$5.00) and return.

Sunday, April 25, 1909, Joseph, Oregon:

Looking for W. J. Huffman & J. W. Needham, witnesses in re H. E. 12296, H. Mitchell, La Grande, Ore., series.

Monday, April 26, 1909, Joseph, Ore., to Enterprise, Ore.:

Lv. Joseph 7.15 a. m.; ar. Enterprise, Ore., 7.45 a. m., on return ticket, baggage, \$.25. Conducting hearing in re H. E. 11805, L. Wilson, La Grande, Ore., series.

Tuesday, April 27, 1909, Enterprise, Ore.:

Conducting hearing re H. E. 11805, L. Wilson; conducting hearing re 12296, H. Mitchell, both La Grande series. Paid W. C. Boatman for certified copies three deeds for use in hearing U. S. vs. L. Wilson H. E. 11805. Made letter report to chief in re H. E. 11805, L. Wilson, & 12296, H. Mitchell, hearings, with all vouchers and papers.

Wednesday, April 28, 1909, Enterprise, Ore., to La Grande, Ore.:

Baggage from hotel to depot at Enterprise, \$.25. Lv. Enterprise 7.30 a. m.; ar. La Grande 2.20 p. m., via O. R. & N. Co., on return ticket. Wrote Sam D. Clay, Luella Wade, & John Fisher in re hearing in H. E. 11717, J. McCulloch, La Grande series. Wrote chief in re A. B. Rogers of La Grande land office.

Thursday, April 29, 1909, La Grande, Ore., to Baker City, Ore.:

At U. S. land office, La Grande, Ore., getting status of entries as per letter "P" 55734 D. A. M. Lv. La Grande, Ore., 9.30 p. m.; ar. Baker City, Ore., 11.30 p. m., via O. R. & N.; fare, T. R. 11933 round trip, \$3.10; bus hire, depot to hotel & return, \$.25; Pullman from La Grande to Baker City, .25.

Friday, April 30, 1909, Baker City, Ore.:

Baggage from depot to hotel at Baker City, \$.25. Conducting hearing in re Davies Mining & Milling Co., mineral application 264, La Grande, Ore., series. Testified by deposition in re H. E. 13689, A. Berg; 13861, J. MacInnes, & 12973, N. Nelson, all The Dalles, Ore., land district. Prepared & sent to chief monthly expense account.

Daily reports, May, 1909.

[All signed "Horace Tillard Jones, special agent."]

Saturday, May 1st, 1909, Baker City, Ore.:

Conducting hearing re U. S. vs. T. & S. 02727, H. J. Evans, La Grande, Ore., land district. Telephone message to postmaster at Keating, Ore., \$.25; telephone message to B. L. Wheeler, Sumpter, Ore., \$.35. Wrote chief in re hearing in T. & S. 02727, H. J. Evans.

Sunday, May 2nd, 1909, Baker City, Ore.:

Telephone message to chief at Portland, Ore., \$1.25. Wrote chief re heirs A. H. Davis. Wrote chief re heirs S. Page. Wrote chief re heirs Carter Mitchell. Wrote chief re H. E. 11805. Wrote chief re Min. App. 264, Darius M. & M. Co. Wrote F. C. Bramwell re D. L. E. 313, H. J. Bean. All in La Grande, Ore., land dist. Wrote Ed. Wright re H. E. 14713, B. Keenan, The Dalles, Ore., series. Wrote S. D. Clay re H. E. 11717, J. McCulloch, La Grande, Ore., series.

Monday, May 3, 1909, Baker City, Ore.:

Conducting hearing in U. S. vs. T. & S. 02727, H. J. Evans, La Grande, Ore., series.

Tuesday, May 4, 1909, Baker City, Ore.:

Conducting hearing re U. S. vs. T. & S. 02727, H. J. Evans, La Grande, Ore., series. Wrote chief in re T. & S. 5210, J. H. Parker, La Grande, Ore., series.

Wednesday, May 5, 1909, Baker City, Oregon:

Conducting hearing in U. S. vs. T. & S. 02727, H. J. Evans, La Grande, Ore., series.

Thursday, May 6, 1909, Baker City, Ore., to Pendleton, Ore.

Conducting hearing in U. S. vs. T. & S. 02727, H. J. Evans, La Grande, Ore., series. Baggage from hotel to depot at Baker City, Ore., \$.50. Lv. Baker City, Ore., 6.10 p. m., ar. La Grande, Ore., 8 p. m., on return ticket, via O. R. & N. Co. Lv. La Grande, Ore., 8.10 p. m., ar. Pendleton, Ore., 11.05 p. m., via O. R. & N. Co.; fare, \$2.20.

Friday, May 7, 1909, Pendleton, Ore.:

Wrote letter to chief in re hearing on T. & S. 02727, H. J. Evans. Wrote letter to chief in re H. E. 11717, J. McCulloch. Wrote letter to chief in re H. E. 11805, L. Wilson. All in La Grande, Ore., land office. Wrote F. L. Spaulding re H. E.

14371, W. Bones. Wrote chief re J. W. Draper hearing on disbarment. Wrote chief re expense of Ethel Graves, contest clerk. Wrote chief re H. E. 13244, W. L. Johnson. All Portland, Ore., land district. Made report to G. L. O. on La Grande, Ore., land office.

Saturday, May 8, 1909, Pendleton, Ore.:

Examining records Umatilla County, Ore., in re Maxwell Ditch Co. Instructing Special Agent P. E. Crowley. Agreed with S. A. Lowell, atty. for defense to stipulate cases in re U. C. E. 689, Alfred Tellman, U. C. E. 815, J. D. Rose. Conferring with R. J. Raley in re hearings in U. C. E. 570, Wm. Girton, U. C. E. 329, C. C. Foster, & U. C. E. 531, S. E. Darr. Conferring with S. A. Newberry in re H. E., Ralph Howland. All in La Grande, Ore., land district.

Sunday, May 9, 1909, Pendleton, Ore.:

Telephone message to postmaster at McKay, Ore., \$.25. Telephone message to Geo. Adams at McKay, Ore., \$.25.

Sunday, May 10, 1909, Pendleton, Ore.:

Stipulated in re hearing in U. C. E. 815, J. D. Rose, & 689, A. Tellman, \$.25. Looking at assessments in re M. J. Jordan H. E. 12360, F. Downey, H. E. 10650, E. S. Wilbur, H. E. 9840, & J. R. Shipp, H. E. 14370. Phone message to Newton at Helix, Ore., \$.25. Conferring with U. S. Commr. J. Hailey, jr., in re cases set for hearing. Conferring with T. M. Kellar in re Umatilla lands. Conferring with B. F. Brown, witness, re H. E. 9840, E. S. Wilbur. Instructing Spl. Agt. R. E. Crowley in field work, etc.

Tuesday, May 11, 1909, Pendleton, Ore.:

Conducting hearing re H. E. 9840, E. S. Wilbur; reported same to chief, telephoned J. M. Schmitz, forest supervisor, Walla Walla, Wn., in re same. Made abstract title to land of Nels C. Nelson, in Tp. 35, R. 30 E. for U. S. atty. for Ore. Interviewed A. F. Michael in re application of Mary E. Michael et al., in re Umatilla lands. Transmitted papers in re H. E. 11101, E. O. Neill, to chief. All in La Grande, Ore., land district.

Wednesday, May 12, 1909, Pendleton, Ore.:

Conducting hearing in re H. E. 10650, Frank Downey. Conferring with James Lehman & T. L. Willoughby, witnesses before hearing. Stipulated with defense in re U. C. E. 329, C. C. Foster. All in La Grande, Ore., land district. Phone message to postmaster at McKay, Ore., \$.25.

Sent all papers in Downey & Foster cases to chief with letter. Instructing Special Agent R. E. Crowley in field work.

Thursday, May 13, 1909, Pendleton, Ore.:

Two interviews.

Friday, May 14, 1909, Pendleton, Ore.:

Lv. Vansycle 5 a. m. Made field exam. H. E. 15583, F. Odell, with R. E. Crowley, spl. agt. Took afdvt. said Odell & interviewed Eaton in re said entry; team hire, \$.30. Lv. Vansycle 8.20 a. m.; ar. Pendleton 9.30 a. m., via N. P. R. R., fare, .75. Wrote chief in re U. C. E. 531, S. E. Darr, 689, A. Tellman, 570 Wm. Girton. H. E. 12360, M. J. Jordan (4 letters). Instructing Spl. Agt. Crowley in running mortgage & deed indices in re D. L. E. 370 of Robert J. Slater, et al. Paid phone message to John McCourt, \$.95. All in La Grande, Ore., land district.

Saturday, May 15, 1909, Pendleton, Ore.:

Wrote J. T. Williamson & M. J. Jordan re H. E. 12360 (two letters). Wrote chief in re cases L. G. 1153 & 1303. Lieu select., & H. E. 10650, F. Downey, U. C. E. 329, C. C. Foster (3 letters). Searching assessors records Umatilla County, Ore., re H. E. 10446, S. Anderson. Interviewed W. Klomker re H. E. 12256. Took afdvt. A. Lindeman re H. E. 11531. All in La Grande, Ore., land district.

Sunday, May 16, 1909, Pendleton, Ore.:

Took afdvt. of Walter Klomker in re H. E. 12256. La Grande, Ore., land district.

Monday, May 17, 1909, Pendleton, Ore.:

Wrote chief in re 136 miscellaneous cases assigned to me for investigation in La Grande, Ore., land dist. Wrote chief in re H. E. Ed. Patterson, The Dalles, Ore., series. Wrote chief in re H. E. Bob Thompson, The Dalles, Ore., series. One interview.

Tuesday, May 18, 1909, Pendleton, Ore., to Pilot Rock, Ore.:

Lv. Pendleton, Ore., 9 a. m. Ar. Pilot Rock, 10 a. m., via O. R. & N. Co; fare (no rebate), \$.55. Conducting hearing in re U. S. vs. H. E. 14370 J. R. Shipp, La Grande Oregon, land district.

Wednesday, May 19, 1909, Pilot Rock to Pendleton, Ore., Pendleton, Ore., to Baker City, Ore.:

Conducted hearing in H. E. 12360, M. J. Jordan; sent papers & report to chief Afdvt. A. Kunger in re H. E. 9081. Lv. Pilot Rock 2 p. m.; ar. Pendleton 3 p. m., via O. R. & N; fare \$.55; Lv. Pendleton, Ore., 5.30 p. m., ar. Baker City, Ore., 11 p. m.

via O. R. & N. Co; fare by T. R. 11934, \$3.80; no rebate for Rt. Pullman seat, .75. Round trip fare depot to hotel & return, Baker City, Ore., .25. Telegraph address for 20-21 will be Sumpter; mail address, Baker City.

Thursday, May 20, 1909, Baker City, Ore., to Sumpter, Ore.:

Transfer baggage from O. R. & N. depot to Sumpter Valley R. R. depot, \$.25; Lv. Baker City 9.30 a. m.; ar. Sumpter, Ore., 11 a. m., via S. V. R. R., fare, 1.25; transfer of baggage from depot to hotel at Sumpter, Ore., .25. Interviewed G. E. Allen & J. M. Jones in re H. S. C. E. 12851 of H. Howard, La Grande, Ore., series. Made field exam. of same. Wrote assayer, Seattle, Wash., re same. Wrote U. S. Atty. for Oregon in re same.

Friday, May 21, 1909, Sumpter, Ore., to Baker City, Ore.:

Took advts. J. M. Jones, D. L. Kilgore, A. J. Denny, & H. Howard in re I. & S. C. E. 12851 of H. Howard, La Grande, Ore., series. Interviewed manager Blue Mountain Eagle newspaper, Jas. W. Ball, U. S. Commissioner, and cashier First National Bank, Sumpter, Ore., in re said I. & S. C. E. 12851, H. Howard. Transfer of baggage hotel to depot, Sumpter, Ore., \$.25; lv. Sumpter, Ore., 4 p. m., ar. Baker City, Ore., 5.30 p. m. via S. V. R. R., 1.25; transfer baggage from S. V. R. R. to O. R. & N. depot at Baker City, .25; round trip bus fare, depot to hotel, Baker City, Ore. & return .25. Will be at La Grande May 22, 23, 24; Pendleton, 25, 26, 27.

Saturday, May 22, 1909, Baker City, Ore., to La Grande, Ore.:

Lv. Baker City, Ore., 7.35 a. m., ar. La Grande, Ore., 9.25 a. m. via O. R. & N., fare, \$1.55; seat in Pullman, Baker City to La Grande, .25; transfer baggage at La Grande, .25. Instructing Spl. Agt. R. E. Crowley in examination of records of U. S. Land Offices.

Sunday, May 23, 1909, La Grande, Ore.:

4 letters.

Monday, May 24, 1909, La Grande, Ore., to North Powder, & return:

Lv. La Grande, Ore., 6.15 a. m., ar. North Powder, Ore., 7.45 a. m. via O. R. & N. Co., fare, \$.95; made field exam. of unlawful inclosure, John Boyd, in Tp. 6540 E. Lv. Selacaset, Ore., 7.10 p. m., ar. La Grande, 8 p. m. via O. R. & N., fare, .65; telephone message to A. Christensen, Portland, Ore., from La Grande, .95.

Tuesday, May 25, 1909, La Grande, Ore., to Pendleton, Ore.:

Transfer of baggage from hotel to depot at La Grande, Ore., \$.25. Wrote letter to U. S. Atty., Portland, Ore. re I. & S. C. E. 12815. Lv. La Grande, Ore., 10.15 a. m., ar. Pendleton, Ore., 1.15 p. m. via O. R. & N. Co., see I. R. 11935 (\$4.50) self & R. E. Crowley, Spl. Agt., seat in Pullman from La Grande, Ore., to Pendleton, Ore., .25. Interviewed S. A. Newberry re fraudulent entries in interest of Derig Betts. Wrote chief re unlawful inclo., John Boyd, in Tp. 6 S., R. 40 E. & sent all papers. Interviewed A. I. Barnes in re U. C. E. 330, E. L. Smith, all in La Grande, Ore., land district.

Wednesday, May 26, 1909, Pendleton, Ore., to Pilot Rock, Ore.:

Lv. Pendleton, Ore., 9 a. m.; ar. Pilot Rock, Ore., 10 a. m., via O. R. & N. Co.; fare, \$.55. Lv. Pilot Rock, Ore., 12 m., drove to H. S. entry, A. E. Johnson, sec. 31, Tp. 2 S., R. 32 E. & hunted for Govt. survey stake. Returned to Pilot Rock, Ore., 7 p. m. Interviewed Thos. Heney, Thos. Gibson, & K. G. Warner in re said timber entry A. E. Johnson. Will be in vicinity Pilot Rock with C. W. Matthews till May 31st. P. O. address will be Pendleton, Ore., till June 1st.

Thursday, May 27, 1909, Pilot Rock, Ore.:

Cases examined: Entries, 1 good. Affidavits, 1. Interviews, 1.

Friday, May 28, 1909, Pilot Rock, Ore., to McKay, Ore.:

Lv. Pilot Rock, Ore., 8 a. m. Paid M. K. Thompson, Pilot Rock, Ore., for hire two horses & buggy from Pilot Rock, Ore., to country & return, from May 26 (12 m.) to May 28 (10 a. m.), 1909, \$10.25. Interviewed F. Michael & C. W. Mathews in re U. E. 0346. Took afdvt. C. W. Mathews & J. A. Hubbard in re U. E. 470. Arrived at McKay, Ore., 6 p. m. Cases examined: Entries, 1 good, 1 bad.

Saturday, May 29, 1909, McKay, Ore., to Pilot Rock, Ore.:

Paid J. A. Hubbard, McKay, Ore., for supper, bed, & breakfast for two saddle horses, \$.75. Horse hire, \$2.00. To C. W. Mathews for services as guide, \$4.00. Cases examined: Entries, 1 good.

Sunday, May 30, 1909, Pilot Rock, Ore., to Pendleton, Ore.:

Lv. Pilot Rock, Ore., 8 a. m.; ar. Pendleton, Ore., 12 m. Paid for team for above trip, \$5.00. Conferring with R. E. Crowley, Spl. Agt., as to result of work assigned by me to him.

Monday, May 31, 1909, Pendleton, Ore.:

Wrote chief in re unlawful inclosure of John Boyd in Tp. 6 S., R. 40 E. Wrote chief in re assignment of work to Special Agent R. E. Crowley, La Grande, Ore., series. Made out expense account for May, 1909. Instructing R. E. Crowley, Spl. Agt., G. L. O., how to make out his expense account for May, 1909.

Daily reports, June, 1907.

[All signed "Horace Tillard Jones, special agent."]

Tuesday, June 1, 1909, Pendleton to La Grande, Ore.:

Conferring with F. Michaels & G. Adams in re Umatilla entries 470, 0366, 476 & 619. Conferring with R. J. Slater in re desert entries 375, 370, 356 & 373. Wrote letter of instructions and assigned 26 cases for investigation to Spl. Agt. R. E. Crowley. Lv. Pendleton, Ore., 5.15 p. m.; ar. La Grande, Ore., 8.30 p. m., via O. R. & N. Fare, see TR. 11936 (\$4.55); seat in Pullman, Pendleton to La Grande, .50. P. O. address for June 2 & 3, La Grande; June 4 to 8th, Pendleton. Telegraph address, June 3, La Grande; 4, Hilgard.

Wednesday, June 2, 1909, La Grande-Enterprise, Ore.:

'Phone message fr. La Grande to H. W. Harris, Wallowa, Ore., \$.60. Lv. La Grande 9.45 a. m.; ar. Enterprise, Ore., 3.45 p. m., via O. R. & N. Co. Fare, see TR. 11936. Consulting county records, Enterprise, Ore., re H. E. 11805, L. Wilson. 'Phone message to Wallowa livery stable, Wallowa, Ore., .25.

Thursday, June 3, 1909, Enterprise to Wallowa, Ore.:

Lv. Enterprise 7.30 a. m.; ar. Wallowa, 8.45 a. m. Fare, O. R. & N., \$.55. Lv. Wallowa 9 a. m. Drove to sec. 4, Tp. 3 N., 41 E., and took advt. C. W. Brown in re alleged frauds in Tp. 4 N., R. 41 E. Returned to Wallowa 9 p. m. Team hire, 6.00.

Friday, June 4, 1909, Wallowa to La Grande:

Took advt. H. R. Bursell in re Tp. 4 N., R. 41 E. Lv. Wallowa 9 a. m.; ar. La Grande, 2 p. m., via O. R. & N. Fare, \$1.80. 'Phone message to Ralph Hansen, Telocaset, Ore., .30. Telegram to A. Christensen, Portland, Ore., .27. Examining records at L. L. O. in re Tp. 4 N., R. 41 E. Will be at La Grande June 5-6; Kamela, 7 & 8.

Saturday, June 5, 1909, La Grande, Or., to Union, Ore.:

Breakfast for Field Assistant T. Newman, \$.25. Lv. La Grande, 6.20 a. m.; ar. Union, Ore., 7 a. m., via O. R. & N. & C. R. R. of Ore. Fares for self & T. Newman, field assistant (no R. T.), 1.30. Drove to Tp. 6 S., R. 40 E., locating govt. corners in re unlawful inclosure, case of John Boyd. Dinner for field asst., .25. Returned to Union, Ore., 6 p. m. Supper for field asst., .25. Team hire, 3.50. Paid Field Asst. T. Newman for services for one day, 3.00. Lv. Union, Ore., 7.45 p. m.; ar. Union Jctn., 8 p. m., via C. R. R. of Ore. Fares for self & T. Newman, .50.

Sunday, June 6, 1909, La Grande, Ore.:

Lv. Union Junction 5 a. m., ar. La Grande, Ore., 5.30 a. m. via O. R. & N. Co., fares of self and T. Newman, field asst., .80. Wrote letter to chief in re U. S. Commr. C. A. Moore. Wrote letter to chief in re U. S. Commr. G. G. Schlegel. Wrote letter to chief in re La Grande L. O. Wrote letter to R. E. Crowley in re H. E. 9742. Wrote letter to R. E. Crowley in re H. E. 8168. Phone message to J. S. Cooper, Pendleton, Ore., .25. All entries in La Grande, Ore., land district.

Monday, June 7, 1909, La Grande to Telocaset & return:

Phone message to Chas. Landers, Union, Ore., \$.15. Lv. La Grande, Ore., 6.20 a. m.; ar. Telocaset, Ore., 7.30 a. m.; fare, \$.65. Locating govt. corners in Tp. 6 S., R. 40 E., with surveyor. Dinner for Charles & Wm. Landers, field assistants, \$.50. Paid Charles Landers, Union, Ore., for services as surveyor, \$5.00. Paid Wm. Landers, Union, Ore., for services as rodman, \$2.00. Paid W. B. Gasset, Union, Ore., for team hire, \$4.00. Lv. Telocaset, Ore., 9 p. m.; ar. La Grande, Ore., 10 p. m.; fare, \$.65. P. O. address Pendleton, Ore., until further notice.

Tuesday, June 8, 1909, La Grande to North Powder, Ore.:

Phone message to chief field div., Portland, Ore., from La Grande, Ore., \$1.30. One blueprint of Tp. 6 S., R. 40 E., from J. B. Williamson, \$.25. At U. S. land office getting status of homestead entries in Tp. 6 S., R. 40 E. Lv. La Grande, Ore., 10 p. m.; ar. North Powder, Ore., 11.30 p. m. via O. R. & N. Co.; fare, no round trip, \$.95. Will be at Pendleton, Ore., June 10, 11, 12 for mail.

Wednesday, June 9, 1909, North Powder to Hot Lake, Ore.:

Lv. North Powder, Or., 8 a. m.; made field exam. H. E. 15980, A. Mitchell, "bad." Took advt. F. F. Wilshire, S. B. Bell, & I. L. Haller re said entry. Team hire, \$5.00. Dinner for driver & two horses, \$.50. Lv. Telocaset, Ore., 8.10 p. m.; ar. Hot Lake Ore., 9 p. m. via O. R. & N. Co.; fare, \$.45.

Thursday, June 10, 1909, Hot Lake, Ore., to Pendleton, Ore.:

Lv. Hot Lake, Ore., 9.10 a. m.; ar. La Grande, Ore., 9.45 a. m.; fare, \$.25. Lv. La Grande, Ore., 12.30 p. m.; ar. Pendleton, Ore., 3.30 p. m.; fare (\$2.25), transportation request 11937. Pullman seat, \$.50. Took advt. J. Hailey, jr., U. S. com. in re alleged T. & S. filing of one A. Krueger. Running records Umatilla County Ore., re D. L. E. 370, 373, 375 & La Grande 01792. All La Grande series.

Friday, June 11, 1909, Pendleton, Pilot Rock and Gurdane, Ore.:

Lv. Pendleton, Ore., 9 a. m.; ar. Pilot Rock, Ore., 10 a. m., via O. R. & N. Co.; fare (no R. T.), \$.55. Lv. Pilot Rock, Ore., 11 a. m.; ar. Gurdane, Ore., 4 p. m. Took affids. of J. L. Hall, W. Curtwright, and J. Marcum in re H. E. 14446, Stella Anderson, La Grande, Ore., series.

Saturday, June 12, 1909, Gurdane, Pilot Rock, and Pendleton, Ore.:

Interviews, 3.

Sunday, June 13, 1909, Pendleton to Hermiston:

Lv. Pendleton, Ore., 8 a. m.; took affidavit of J. A. Isaac in re U. E. 470; returned to Pendleton 9 a. m. Team hire, \$2.50; lv. Pendleton, Ore., 1 p. m.; ar. Umatilla, Ore., 2.30 p. m. via O. R. & N. Co.; fare, \$1.30; lv. Umatilla, Ore., 3.15 p. m.; ar. Hermiston, Ore., 3.30 p. m., via O. R. & N. Co., fare, \$.20; seat in Pullman from Pendleton to Umatilla, Ore., \$.25. Made field exam. D. L. E. 01792 A. Parr, "good."

Monday, June 14, 1909, Hermiston to Portland.

Tuesday, June 15, 1909, Portland, Oregon:

Conferring with chief field div., in re 11-7 cases, and also in re complaint of F. B. Allen in re alleged fraudulent entries in Tp. 32, S. R. 13 W., Roseburg land district. Attended taking deposition of T. H. Guy in re his H. E. 14417, Portland, Oregon, series. Made typewritten copies of affidavits of W. Curtright, Jas. Marcum, in re H. E. 10446, La Grande, Ore., series. Transfer of baggage from depot to house at Portland, Ore., \$.50.

Wednesday, June 16, 1909, Headquarters:

Completed taking deposition T. H. Guy in re H. E. 14417, Portland series. Made report to chief re H. E. 11805, L. Wilson; H. E. 0993, J. W. Duncan; H. E. 12851, H. Howard, all in La Grande land district. Conferring with A. Christensen, chief field div., in re indictment against H. E. G. Cooke, in New York, N. Y. Conferring with H. D. Newell re D. L. E. 02427, J. F. McNaught, La Grande, Ore., series.

Thursday, June 17, 1909, headquarters:

Wrote La Grande land office for status H. E. 15980 & 23 others. Copied ten affidavits in connection with 4-480 reports to be made. Conferring with R. & R. Portland land office and with A. I. Moulton, atty. for deft. in re H. E. 12841, P. H. Sroat, Portland series.

Friday, June 18, 1909, headquarters:

Gave depositions in re H. E. 14329, P. A. Tinseth, Portland series.

Saturday, June 19, 1909, headquarters:

Hunting for Stella Anderson to interview in re her H. E. 10446, La Grande, Ore., series. Made letter report in re H. E. 10446, Stella Anderson supplemental. Also report in re Ind. Sch. sel. of H. N. Moore, for State of Ore. Also in re John Hailey, jr., U. S. Com. to G. L. O. Wrote Peter Ticker, Troy, Ore., in re J. T. Valen, J. P.

Sunday, June 20, 1909, Seattle & Portland:

Lv. Portland 12.15 a. m. Ar. Seattle, Wn., 8 a. m., via N. P. R. R. T. R. 11939 (for self & F. R. Spaulding), fare, \$11.20. Sleeper for self & F. R. Spaulding, Portland to Seattle, T. R. 11940 (\$4.00). One street-car fare in Portland, Ore., \$.05. One street-car fare in Seattle, Wn., \$.05; fee to porter on Pullman, \$.25. Conferring with L. R. Glavis in re Alaska coal cases.

Monday, June 21, 1909, Seattle, Wash.:

Preparing lists and getting addresses of Alaska coal-land claimants in Seattle, Wash. Took affidavit of Mary G. Davis in re her Alaska coal claim. Made engagement with H. B. Drees to take his affidavit Tuesday, June 22, 1909.

Tuesday, June 22, 1909, Seattle, Wash.:

Took affidavit of H. B. Drees in re his Alaska coal claim. Interviewed W. J. Hosom and Thos. Payne in re the Mackey group of Alaska coal claims. Interviewed C. F. Munday in re the Stracey group of coal claims. Interviewed G. H. Stewart in re his Alaska coal claim.

Wednesday, June 23, 1909, Seattle, Wash.:

Took advt. of N. H. Peterson in re his Alaska coal claim. Interviewed G. Simmonds, in re Simmonds group coal claims. Interviewed Orville Reyburn in re his Alaska coal claim. Interviewed Capt. E. J. Rathburn, in re the Morrow group of Alaska coal claims. Interviewed A. J. M. Hosom, in re the Mackey group of Alaska coal claims.

Thursday, June 24, 1909, Seattle, Wash.:

Interviewed Capt. E. J. Rathbone in re J. W. Dudley, the Cunningham group coal claims, and other matters relating to forming of corporations among coal claimants. Interviewed A. C. Fry about coal claim of I. V. Fry. Interviewed A. J. M. Hosom, with Mr. Glavis, in re Alaska coal claims and Michigan Alaska Development Co.

Friday, June 25, 1909, Seattle, Wash.:

Took afdvt. W. H. Mackey in re list of 60 coal claims located by him. Assisted Mr. Glavis in taking afdvt. of Judge McKenzie in re Alaska coal claims. Interviewed E. E. Siegley in re Alaska coal claims.

Saturday, June 26, 1909, Seattle, Wash.:

Assisting Mr. L. R. Glavis in getting affidavits, exhibits, etc., relating to Alaska coal-land investigations in shape for report.

Sunday, June 27, 1909, Seattle, Wash.:

Assisting Mr. L. R. Glavis in getting affidavits, exhibits, etc., relating to Alaska coal-land investigations, in shape for report.

Monday, June 28, 1909, Seattle, Wash.:

Took afdvt. M. A. Green in re J. W. Dudley, Reg. U. S. L. O., Juneau, Alaska. Took afdvt. D. A. McKenzie in re coal claim in Alaska. Also in re Alaska Petroleum & Coal Co. Also in re H. K. Love, former Spl. Agt. Got signature of W. H. Mackey to his afdvt. in re coal claims in "Mackey Group." Arranging papers for report on "Mackey Group."

Tuesday, June 29, 1909, Seattle, Wash.:

Begun adverse report on "Mackey Group," Alaska coal claims. Assisted in taking afdvt. H. R. Harriman in re Alaska Petroleum & Coal Co. Made afdvt. as to statements made after giving afdvt. of I. P. McDonald. Took afdvt. I. P. McDonald in re Alaska Smokeless Coal Co. Interviewed H. A. Partridge in re Mackey Group. Worked at office on report "Mackey Group" until 11 p. m.

Wednesday, June 30, 1909, Seattle, Wash.:

Working on report on "Mackey Group" coal cases in Alaska. Interviewed D. A. McKenzie & Mr. Eccles in re Alaska coal cases with Mr. Glavis. Took afdvt. H. A. Partridge in re Mackey Group Alaska coal cases.

Daily reports, July, 1909.

[All signed "Horace Tillard Jones, special agent."]

Thursday, the 1 day of July, 1909:

Seat in Pullman, \$1.00; fee to Pullman porter, \$0.25. Took afdvt. of H. A. Partridge over to him for his signature. Interviewed A. J. M. Hosom about Mackey group of Alaska coal claims. Lv. Seattle, Wn., 1.15 p. m.; ar. Portland, Ore., 8.35 p. m., via N. P. R. R. on T. R. 21728, \$5.60.

Friday, the 2nd day of July, 1909, headquarters:

Transfer baggage, Portland, depot to home, \$0.50. Made out expense account for June. Conferring with A. Christensen, chief, in re Hs. entries in Roseburg, Ore., land district, made in interest Pacific Fur. & Lumber Co. At U. S. attorney's office getting data against said entries. Conferring with chief in re H. E. of G. Newman, La Grande series.

Saturday, the 3rd day of July, 1909, headquarters, Portland, Ore.:

Two street car fares in Portland, \$0.10. Interviewed J. H. Lutz, E. A. Darling, J. O'B. Serber, records of U. S. land office, Portland, Ore., and Polk directory for Everett, Wash., in re H. E. 13068, E. A. Haynes, Portland series. Interviewed Mrs. Wm. Hart, formerly Miss Stella Anderson, in re H. E. 10446, La Grande series.

Sunday, the 4th day of July, 1909, headquarters, Sunday.

Monday, the 5th day of July, 1909, headquarters:

Made letter report to chief in re H. E. 10446, Stella Anderson, La Grande series.

Tuesday, the 6th day of July, 1909, headquarters:

Wrote chief in re A. W. Lafferty; in re W. E. 10532 L. G. series. Wrote Roseburg land office in re Geo. Nicholls. Wrote chief in re Vancouver, Wash., land office. Wrote U. S. Atty. McCourt in re H. E. 10446, La Grande district. Made report to G. L. O. on H. E. 10446. Made report to chief in re H. E. 01125, La Grande series. At U. S. attorney's office getting data in re H. E. 01125.

Wednesday, the 7th day of July, 1909, headquarters:

Made adverse report on T. & S. C. E. 9977 (02389) W. T. Kerr, Roseburg, Ore., series. Interviewed M. D. Scroggs in re D. L. E. 02427-02707 & 02917 La Grande series. Interviewed C. R. Pierce in re H. E. 9326, L. G. series. Interviewed J. A. Stealey in re H. E. 15477, Portland series. Wrote chief recommending investigation of H. E. 02173, L. G. series, and three others. Wrote chief in re H. E. 8065. At U. S. L. O. Portland, Ore., with chief looking up information in re A. A. Roberts.

Thursday, the 8th day of July, 1909, headquarters:

Conferring with J. W. Draper & R. R., Portland land office in re date for hearing for Draper disbarment. Wrote A. J. Sample in re H. E. 01976, La Grande. Wrote Schow Supt. Umatilla Co. re same. Reported to G. L. O. on Tp. 4 R. 41 E. Made 4-45 report on H. E. 10832, W. S. Lindsay.

Friday, the 9th day of July, 1909, headquarters:

At U. S. Land Office having subpoenas issued for witnesses in re U. S. *vs.* J. W. Draper. Took advt. O. L. Chapel in re J. W. Draper. Subpoenaed T. A. Lucas in re U. S. *vs.* J. W. Draper. Made adverse report on J. Hailey, jr., U. S. Commr. Made favorable report on H. E. 470, J. A. Isaac, La Grande (Ore.) land district.

Saturday, the 10th day of July, 1909, headquarters:

Sunday, the 11th day of July, 1909, headquarters:

Monday, the 12th day of July, 1909, Headquarters:

T. R. 21729 (\$7.30); T. R. 21730 (\$2); baggage transfer at Portland, Ore., .50. Made letter report to G. L. O. on DLE. 01796, 01794, 01793, 01792. Made letter report to chief re HE. 15354. Made 4-480 report on Amnt Ent. 330. Made 4-480 report on 02707, 02427, 02917. HE. 15980, HE. 02908. All La Grande, Ore., series. Lv. Portland, Ore., 7 p. m. en route to Walla Walla, Wn., fare T. R. 21729. Berth in sleeper, Portland to Walla Walla, T. R. 21730.

Tuesday, the 13th day of July, 1909, Walla Walla, Wash.:

Fee to Pullman porter, .25. Baggage transfer at Walla Walla, 25c. Telegram to La Grande land office, 25c. Telegram from La Grande land office, 20c. Ar. Walla Walla, Wn., 7 a. m. Attended taking deposition in re HE. 12948, A. L. Canvel, and 12550, Wm. Barber. Interviewed postmaster in re HE. 12550, Wm. Barber. Interviewed Frank Morse, C. B. Cashatt, and H. C. Bryson in re said Barber entry. Made report to chief & sent all papers in re said HE. 12948 & 12550 La Grande, Ore., series. Will be at La Grande, Ore., 15 & 16 July.

Wednesday, the 14 day of July, 1909, Walla Walla, Wash. to La Grande, Ore.:

Baggage transfer at Walla Walla, 25c; Pullman seat, Pendleton, Ore., to La Grande, 50c. Interviewed Dr. E. E. Hall & Dr. B. D. Clowe, Andy O. Grady, postmaster of Walla Walla, Wn. O. S. Jones, W. H. Darman, Sam Hinton, all of Walla Walla, Wash., in re HE. 12550 of Wm. Barber, La Grande series, Ore. Lv. Walla Walla, Wash., 3.15 p. m., ar. La Grande, Ore., 9.15 p. m., via O. R. & N. Co., on T. R. 21731 (fare, \$3.60).

Thursday, the 15th day of July, 1909, La Grande, Oregon:

Transfer baggage, depot to hotel at La Grande, .50. Conducting hearing in re HE. 10744 (serial 01023), La Grande, Ore., J. H. Blumenstein.

Friday, the 16th day of July, 1909, La Grande, Ore.:

Conducted hearing in re HE. 10617 (serial 01011). Charles Hansen, La Grande, Ore., series. Made report of hearing with all papers & vouchers to chief. Sent chief all papers re mining app. J. R. J. Martin, La Grande series. Made report to chief with all papers re HE. 10744 (serial 01023), J. H. Blumenstein, La Grande. Wrote J. C. Minton in re his place of residence.

Saturday, the 17 day of July, 1909, La Grande, Ore., to Enterprise, Ore.:

Lv. La Grande, Ore., 10 a. m., ar. Enterprise, Ore., 3.30 p. m., via O. R. & N. Co. line on T. R. 21732, round trip, fare, \$4.70.

Sunday, the 18th day of July, 1909, Enterprise, Ore.

Monday, the 19th day of July, 1909, Enterprise, Oregon:

Conducting hearing in case of U. S. *vs.* H. E. 8330, serial 05753 of Ada Fay, from 1 p. m. to 12 midnight. La Grande, Ore., series.

Tuesday, the 20th day of July, 1909, Enterprise, Ore.:

Conducting and completed hearing in U. S. *vs.* H. E. 8330, serial 05753, Ada Fay, La Grande series. Conducted hearing in U. S. *vs.* H. E. 11686, serial 02179, Ida B. Welchel, and completed same. La Grande series, from 8 a. m. to 6 p. m.

Thursday, the 22 day of July, 1909, Enterprise, Ore.:

Conducted & completed hearing in re La Grande 03205 H. E., Chas. E. Young.

Friday, the 23 day of July, 1909, Enterprise, Ore., to Baker City, Ore.:

R. R. fare (no rebate), \$1.55; bus hire (round trip), \$.25. Lv. Enterprise 7.30 a. m., ar. La Grande 2.30 p. m., via O. R. & N., on return ticket; lv. La Grande 9 p. m., ar. Baker City 11.30 p. m., via O. R. & N., fare \$1.55; made report to chief on hearing in La Grande H. E. 03208, C. E. Young.

Saturday, the 24 day of July, 1909, Baker City, Ore.:

Transfer baggage depot to hotel, \$.35; telegram from chief, \$.20. Conducting hearing in U. S. *vs.* T. & S. 02197 of J. F. Johnson, La Grande series.

Sunday, the 25 day of July, 1909, Baker City, Ore.:

Took advt. John Karg in re his mining location. Transmitted papers in re U. S. *vs.* T. & S. 02197 of J. F. Johnson, La Grande series, with report to chief.

Monday, the 26 day of July, 1909, Baker City, Ore.:

Interviewed Killis J. Martin, Ernest Lawsen, Isaac Hiatt, W. F. Staley, & B. F. Wilson in re M. E. 260, La Grande series of K. J. Martin. Attended hearing in re M. E. 260 of K. J. Martin & continued same to date of final hearing without taking any testimony, at request & by consent of law officer, W. F. Staley, of Forest Service.

Tuesday, the 27 day of July, 1909, Baker City, Ore.:

Searching records of Baker County, Ore., for transfers & record of assessments in respect to T. & S. 02197 of Jas. F. Johnson & in re H. E. 03280 M. S. Turnbull, La Grande Ore., series. Took advt. Roren Byam in re mining claim of John Karg. Interviewed W. F. Staley and W. R. Davey in re Double Eagle Mining Co. claims, included in M. A. 371, La Grande, Ore., series.

Wednesday, the 28 day of July, 1909, Baker City, Ore.:

Telegram via W. U. T. Co. to T. J. Supt., The Dalles, Ore., .28.

Conducting hearing in re H. E. 03280, La Grande, c/o M. S. Turnbull.

Thursday, the 29 day of July, 1909, Baker City, Ore.:

Baker Abstract & Trust Co., for abstract in J. H. Johnson case, H. E. 02197 La Grande series, 7.50. Appeared at hearing re M. E. 371 Double Eagle Mining Co. & dism. case. Transmitted to chief with letter all papers in re Double Eagle Mining Co. Mineral application 371 La Grande series. Also papers in re H. E. 03250 La Grande series, M. S. Turnbull, with letter. Also papers in re T. & S. 01606 J. M. Brown, La Grande series, with letter. Also papers in re T. & S. 01169 M. C. Petersen, La Grande series, with letter. Wrote Geo. Gibbs in re H. E. 04567 L. G. series Wm Barber. Wrote Jay Hamblin in re T. & S. 01606 J. M. Brown, L. G. series. Wrote J. C. Newton re H. E. 04127 L. G. series Elias Crane. Took deposition A. Klurer re T. & S. 01169 M. C. Petersen, La Grande series.

Friday, the 30 day of July, 1909, Baker City, Ore. to Canyon City, Ore.:

Fare from Austin, Ore., to Canyon City, Ore., via Blue Mountain Rapid Transit Co. (round trip), \$7.50. Lv. Baker City, Ore., 9.30 a. m.; ar. Canyon City, Ore., 10.30 a. m. Fare from Baker City, Ore., via Sumpter Valley R. R. by T. R. 11733; round trip (\$5.00).

Saturday, the 31 day of July, 1909, Canyon City, Ore.:

Conducting hearing in re H. E. 03338, Jack Vaughn, La Grande, Ore., series from 10 a. m. to 11 p. m.

Daily reports, August, 1909.

[All signed "Horace Tillard Jones, special agent."]

Sunday, the 1st day of August, 1909, Canyon City, Ore., Sunday.

Monday, the 2 day of August, 1909, Canyon City, Ore.:

Conducting hearing in re H. E. 03338, Jack Vaughn, La Grande series, from 9 a. m. to 12 midnight.

Tuesday, the 3rd day of August, 1909, Canyon City, Ore.:

Conducting hearing in re U. S. vs. H. E. 01638, J. W. Hardisty, La Grande series from 10 a. m. to 5 p. m.

Wednesday, the 4 day of August, 1909, Canyon City, Ore.:

Conducting hearing in re H. E. 01653, C. A. Scroggins, & H. E. 01782, E. Scroggins, La Grande, Ore., series.

Thursday, the 5 day of August, 1909, Canyon City, Ore.:

Conducting hearing in re T. & S. 01169, M. C. Peterson, La Grande, Ore., series, & completed same. Will be at Baker City August 6 & 7th, 1909.

Friday, the 6th day of August, 1909, Canyon City, Ore.:

Made letter report to chief in re H. E. 01782, E. Scroggins; 01653, C. A. Scroggins; 01638, J. W. Hardisty; 03338, J. Vaughn; T. & S. 01169, M. C. Peterson. Conducted hearing re H. E. 04335, A. B. Shrier. Made letter report with all papers to chief.

Saturday, the 7th day of August, 1909, Canyon City, Ore., to Baker City, Ore.:

'Phone message to & from La Grande land office, .50. Carriage hire, self & baggage, depot to hotel, Baker City, .25. Lv. Canyon City, Ore., 5.30 a. m.; ar. Austin, Ore., 1.15 p. m., via Blue Mountain Rapid Transit Line, on return ticket. Lv. Austin, Ore., 2.15 p. m.; ar. Baker City, Ore., 5.30 p. m., via S. V. R. R., on return ticket.

Sunday, the 8 day of August, 1909, Baker City, Ore.:

Baggage from hotel to depot, Baker City, Ore., .50. R. R. fare, Baker City to La Grande, via O. R. & N., \$1.55. Seat in Pullman, Baker City, Ore., to La Grande, Ore., .25.

Monday, the 9 day of August, 1909, La Grande, Ore.:

Entered into stipulation disposing of hearing in re M. E. 260 of K. J. Martin, Grande series. Attended final hearing in re H. E. 8330, Ada Fay, née Johnson & took deposition H. W. Harris. Sent all papers in said cases, with letter report, to chief. Interviewed W. W. Carter in re H. E. 06848, La Grande series.

Tuesday, the 10th day of August, 1909, La Grande to Pendleton, Ore.:

Telephone message to & from U. S. land office, La Grande, .55. Conducting hearing in re H. E. 0472, B. Hazen, dec., La Grande series. Lv. La Grande 5.45 a. m.; ar. Pendleton, Ore., 9 a. m., via O. R. & N.; fare, T. R. 21734 (\$2.20).

Wednesday, the 11 day of August, 1909, Pendleton, Ore., to Walla Walla, Wn.:

Telephone message to H. C. Bryson, Walla Walla from Pendleton, .30. Transfer baggage from depot to hotel & return at Pendleton, Ore., .50. Round trip bus line Walla Walla, .25. O. R. & N. R. R. fare Pendleton to Walla Walla, 1.40. Conducted hearing in re H. E. 04127 E. Crane, La Grande, Ore., series. Took affidavit D. P. Smythe in re H. E. 14010 J. Hamburg, and 13796 L. Hamburg, The Dalles, Ore., series. Conferring with S. A. Lowell in re Carey Act project of D. C. Brownell, T. 5 N., R. 28 E., La Grande, Ore., land district. Lv. Pendleton 6.30 p. m., ar. Walla Walla, Wn., 8.15 p. m. via O. R. & N. Co.

Thursday, the 12 day of August, 1909, Walla Walla, Wn. to Milton, Ore., & return.

W. W. V. Ry. Co. round trip fare Walla Walla, Wn., to Milton, Ore., .40. Conducting hearing in re H. E. 04567 Wm. Barber, La Grande, Ore., series. Lv. Walla Walla, Wn., 9 a. m., ar. Milton, Ore., 10 a. m. Lv. Milton, Ore., 12 m., ar. Walla Walla, Wn., 1 p. m. Conferring with H. C. Bryson, atty., in re H. E. 04567 Wm. Barber. Conferring with Eugene Harris, atty., in re H. E. 04359 C. H. Dickerson in re stipulating said case.

Friday, the 13 day of August, 1909, Walla Walla, Wn., to Milton, Ore., & return & en route to Portland, Ore.:

To E. L. Brunton for serving three spas., 3.00. To W. W. V. Ry. Co. round trip fare to Milton, Ore., & return, .40. Stipulated with attorney for deft. in U. S. vs. H. E. 04567 Wm. Barber. Stipulated with attorney for deft. in U. S. vs. H. E. 04359 C. H. Dickerson, both La Grande, Ore., land district. Lv. Walla Walla, Wn., 1 p. m., ar. Milton, Ore., 2 p. m. Conferred with C. H. Dickerson & his atty. in re H. E. 04359. Lv. Milton 4 p. m., ar. Walla Walla 5 p. m. via W. W. V. Ry. Lv. Walla Walla 4.30 p. m. en route to Portland, Ore. (7.30) T. R. 21735. Sleeper to Portland from Walla Walla, T. R. 21736 (\$2.00).

Saturday, the 14 day of August, 1909, Portland, Ore.:

Fee to Pullman porter, Walla Walla to Portland, .25. Transfer baggage, depot to house, Portland, Ore., .50. Ar. Portland, Ore., 10.45 a. m. Made report to Chief in re hearings in H. E. 04567 W. Barber, & 04359 C. H. Dickerson, La Grande, Ore., series, by separate letters.

Sunday, the 15 day of August, 1909, Portland, Oregon:

Conferring with Chief in re hearings conducted in La Grande district in July & August, 1909.

Monday, the 16 day of August, 1909, headquarters:

H. E. 5028 (favorable) S. G. Moorefield, 14529, J. A. Jones & H. E. —C. B. Stetter. All favorable & in La Grande series. Wrote chief in re H. E. 13961—L. Hansberry & 14010 J. T. Hansberry, The Dalles series, and in re H. E. 06545 W. W. Carter, La Grande series.

Tuesday, the 17 day of August, 1909, headquarters:

At U. S. Land Office preparing exhibits to be filed in hearing to be held on J. W. Draper disbarment on August 18, 1909. Interviewed Geo. Finley in re J. W. Draper disbarment. Interviewed Dr. E. A. Lawbaugh in re J. W. Draper disbarment.

Wednesday, the 18 day of August, 1909, headquarters:

Conducting hearing in re disbarment of J. W. Draper. Case continued to Aug. 24, 1909. Conferring with Judge C. E. Wolverton in re injunction suit in unlawful inclosure of J. R. Switzler, La Grande series. Examined record in said suit. Interviewed D. W. Rardon in re disbarment of J. W. Draper. Served spas. on four witnesses in Draper disbarment. Dictated letter in re fees in hearings before O. L. Patterson, U. S. commissioner.

Thursday, the 19 day of August, 1909, headquarters:

Looking up law on fees of referees, State of Washington. Made 4-480 report on H. E. 11114, C. Ogilvy, La Grande series. Made adverse report on unlawful inclosure, John Boyd, T. 6540 E. Made supplemental adverse report on H. E. (final) 7060, H. W. Cliford, Portland series. Wrote R. & R., Lakeview, Ore., for status of entries in Tp. 32 S., R. 15 E.

Friday, the 20 day of August, 1909, headquarters:

Making copy of plat of survey of Tp. 35 S., R. 7½ E. Examining and classifying old papers relating to the Tillamook case and other old cases in the Oregon division for chief first field div.

Saturday, the 21 day of August, 1909, headquarters:

At U. S. land office, Portland, Ore., getting status of NW. ¼, SE. ¼ sec. 22, & SW. ¼, NW. ¼ & S. ¼ NE. ¼ sec. 23, Tp. 9 S., R. 10 W., formerly H. E. (cash) 7914, Portland series. Interviewed B. M. Brown in re same. Interviewed Newton McCoy in re same.

Sunday, the 22 day of August, 1909, headquarters, Sunday.

Monday, the 23 day of August, 1909, headquarters:

At office Title Guar. & Tr. Co. conferring with R. S. Howard in re fraudulent desert land entries of Oregon Land & Water Co. Interviewed Alex Macklin in re Big Camas

Valley, in Cascade Mt. Forest Reserve. At U. S. atty. office getting data in re U. S. vs. Wm. E. Burke & C. E. Jocelyn.

Tuesday, the 24 day of August, 1909, headquarters:

Conducting hearing in re disbarment of John W. Draper, Portland, Ore., series.

Wednesday, the 25 day of August, 1909, headquarters & en route to Klamath Falls, Ore.

Wednesday, the 25 day of August, 1909:

Lv. Portland, Ore., 7.45 p. m., en route to Klamath Falls, Oregon. Fare. No rebate for R. T.—see T. R. 21737 (\$17.05). Sleeper from Portland, Ore., to Weed, Calif. T. R. 21735 (\$3.00).

Thursday, the 26 day of August, 1909, en route to Klamath Falls, Ore.:

Fee to Pullman porter, .25. Arrive at Weed, California, en route to Klamath Falls, Ore., 4.30 p. m.

Friday, the 27 day of August, 1909, Weed, Calif., to Klamath Falls, Ore.:

Lv. Weed, Calif., 2 p. m. via S. P. R. R. Ar. Klamath Falls, Ore., 5.35 p. m.

Saturday, the 28 day of August, 1909, Klamath Falls, Ore.:

Transporting baggage, depot to hotel, Klam. Falls, Ore., .50; $\frac{1}{2}$ cost hire gasoline launch, 5.00; dinner & supper at Dan Griffith's for boatman, .50. Lv. Klamath Falls, Ore., 10 a. m. Went to Tp. 35 S., R. 7 $\frac{1}{2}$ E. Made examination. All swamp land. Interviewed John & Dan Griffith & K. P. Hamilton in re character said land. Returned to Klamath Falls, Ore., 12 p. m. in a gasoline launch.

Sunday, the 29 day of August, 1909, Klamath Falls, Ore.:

Interviewed A. J. Santomar & W. H. Heileman, of U. S. R. S., in re Tp. 35 S. R. 7 $\frac{1}{2}$ E. Interviewed R. E. Emmitt in re same. Interviewed C. E. Worden & Jack Kimball in re same. Forward mail to Ashland, Oregon.

Monday, the 30 day of August, 1909, Klamath Falls, Ore., to Ashland, Ore.:

Paid C. M. Collin for services as sheriff, 7.00. Transfer trunk hotel to depot, Klamath Falls, Ore., .50. Lv. Klamath Falls, Ore., 1.40 a. m. Ar. Weed, Calif., 12 m. Lv. Weed, Calif., 1 p. m. Ar. Ashland, Ore., 5.30 p. m., via S. P. R. R. T. R. 21737 (\$6.75).

Tuesday, the 31 day of August, 1909, Ashland, Ore., en route to Portland, Ore.

Service report for month of August, 1909:

Homestead and desert: Reports submitted, good, 5; bad, 4. Preliminary work, affidavits taken, 1; interviews, etc., 6. Hours spent in attendance, hearings, 83. Miscellaneous: Examined in field, good, 1. Preliminary work, affidavits taken, 4; interviews, etc., 18. Unlawful occupancy: Reports submitted, bad, 1.

Daily reports, September, 1909.

[All signed "Horace Tillard Jones, special agent."]

Wednesday, the 1st day of September, 1909, headquarters:

Fee to Pullman porter—Ashland to Portland, Ore., .25. Arrived in Portland, Ore. en route from Ashland, Ore., at 7.30 a. m. Interviewed J. C. Stevens, of Geological Survey, in re land in Tp. 35 S., R. 7 $\frac{1}{2}$ E., selected by State Oregon as swamp. Made favorable report on said selection.

Thursday, the 2d day of September, 1909, headquarters:

Friday, the 3d day of September, 1909, headquarters:

Examining files & records of Oregon Land & Water Co. in re D. L. E. 312, M. C. Ireton, The Dalles, Ore., series & other desert entries in The Dalles & La Grande, Ore. districts. Interviewed J. W. Cook, R. S. Howard, jr., & J. F. Shields in re Oregon Land & Water Co.

Saturday, the 4th day of September, 1909, headquarters:

Wrote R. & R., The Dalles, Ore., for status of D. L. E. 289, J. S. Fish & 24 other

Wrote R. & R., La Grande, Ore., for status D. L. E. 253 & 5 others.

Sunday, the 5th day of September, 1909:

Sunday.

Monday, the 6th day of September, 1909, headquarters:

Labor Day.

Tuesday, the 7th day of September, 1909, headquarters, to Tacoma, Wash.:

Sleeper Portland to Tacoma, Wn. (porter fee, 25 cts.), \$2.00; Puget Sound Electric Co., round trip fare Tacoma to Seattle, \$1.00; parlor-car seat, Tacoma to Seattle, \$.25.

Wednesday, the 8th day of September, 1909, Seattle, Tacoma, Hoquiam, Wn., at Seattle, Wn.:

Parlor-car seat, Seattle to Tacoma, \$.25; parlor-car seat, Tacoma to Hoquiam, Wn. via N. P. R. R., \$.50.

Thursday, the 9th day of September, 1909, Hoquiam, Wn., to Tacoma, Wn.:

Parlor-car seat, Aberdeen to Tacoma, Wn., \$.50.

Friday, the 10th day of September, 1909, Tacoma, Wn., to Portland, Ore.:

Parlor-car seat, Tacoma, Wn., to Portland, Ore., \$.75.

Saturday, the 11th day of September, 1909, headquarters.

Sunday, the 12 day of September, 1909.

Sunday.

Monday, the 13 day of September, 1909, headquarters.

Tuesday, the 14 day of September, 1909, headquarters, to Dallas & Salem, Ore., & return:

S. P. R. R. fare to Dallas, Ore., \$1.90; team hire, \$3.00; Ore. Elec. Ry. Co. fare to Portland from Salem, Ore., \$1.50; telephone message to Rickreall, Ore., \$.15.

Wednesday, the 15 day of September, 1909, headquarters.

Thursday, the 16 day of September, 1909, headquarters.

Friday, the 17 day of September, 1909, headquarters.

Saturday, the 18 day of September, 1909, headquarters:

At office Title Guarantee & Trust Co., investigating desert land entries said to have been made in interest of Oregon Land & Water Co.

Sunday, the 19 day of September, 1909, headquarters.

Sunday.

Monday, the 20 day of September, 1909, headquarters:

Going over papers in Dorgan & Devine case with Spl. Agt. Arundell. At Title Guar. & Tr. Co. looking over papers & records in re Oregon Land & Water Co. desert land entries in The Dalles & La Grande land districts.

Tuesday, the 21 day of September, 1909, headquarters:

At office Title Guarantee & Trust Co. examining books of Oregon Land & Water Co. in re desert land frauds in The Dalles & La Grande, Ore., land districts.

Wednesday, the 22 day of September, 1909, headquarters:

At office Title Guarantee & Trust Co. examining books of Oregon Land & Water Co. in re desert land frauds in The Dalles & La Grande, Ore., land districts. Confering with U. S. Atty. McCourt about said desert land entries.

Thursday, the 23 day of September, 1909, headquarters:

At office Title Guarantee & Trust Co. looking over books of Oregon Land & Water Co. in re desert land entries in The Dalles & La Grande, Ore., land districts.

Friday, the 24 day of September, 1909, headquarters:

At office Title Guarantee & Trust Co. examining books of Oregon Land & Water Co. in re alleged frauds in desert lands in La Grande & The Dalles, Ore., land districts.

Saturday, the 25 day of September, 1909, headquarters:

At office Title Guar. & Tr. Co. examining books of Oregon Land & Water Co. in re alleged frauds in desert lands in The Dalles & La Grande, Ore., districts.

Sunday, the 26 day of September, 1909, headquarters:

Sunday.

Monday, the 27 day of September, 1909, headquarters:

At office of Title Guarantee & Trust Co. looking at records of Ore. Land & Water Co. in re alleged fraudulent desert entries in The Dalles & La Grande, Ore., districts.

Tuesday, the 28th day of September, 1909, headquarters:

At office Title Guarantee & Trust Co. examining books of Oregon Land & Water Co. in re alleged frauds in desert entries in The Dalles & La Grande, Ore., districts.

Wednesday, the 29 day of September, 1909, headquarters:

At office of Title Guarantee & Trust Co. examining records of Oregon Land & Water Co. in re alleged frauds in desert entries in La Grande & The Dalles, Oregon, land districts.

Thursday, the 30 day of September, 1909, headquarters.

September, 1909:

Making examination of records, papers, accounts, etc., in re conspiracy on part of Oregon Land & Water Co. to defraud Govt. of certain desert lands in La Grande & The Dalles, Ore., land districts.

Daily reports, October, 1909.

[All signed "Horace Tillard Jones, special agent."]

Friday, the 1st day of October, 1909, headquarters:

Examining account books of Oregon Land & Water Co., in re frauds in desert lands in La Grande & The Dalles, Ore., land districts.

Saturday, the 2nd day of October, 1909, headquarters:

At office U. S. atty. for Oregon looking over evidence in re Heffner cases.

Sunday, the 3rd day of October, 1909, headquarters:

Sunday.

Monday, the 4 day of October, 1909, headquarters:

At U. S. land office attending hearing in re J. W. Draper, disbarment. Case continued to October 16, 1909. At office Title Guarantee & Trust Co. examining records in re Oregon Land & Water Co.

Tuesday, the 5th day of October, 1909, headquarters:

At office Title Guarantee & Trust Co. looking over records in re frauds in D. L. E in La Grande & The Dalles land districts by Oregon Land & Water Co.

Wednesday, the 6th day of October, 1909, headquarters:

At office Title Guarantee & Trust Co., investigating alleged frauds by Oregon Land & Water Co. in desert lands in The Dalles & La Grande, Ore., districts.

Thursday, the 7th day of October, 1909, headquarters:

Making examination of alleged frauds by Oregon Land and Water Co. in connection with desert land entries in La Grande and The Dalles, Ore., land districts. Conducted taking of deposition of F. A. Lucas at Portland land office in re disbarment J. W. Draper.

Friday, the 8th day of October, 1909, headquarters:

Transfer baggage, hotel to depot, at Portland, Ore., \$.50; T. R. 21745 (11.20), fare Portland to Seattle & ret.; T. R. 21746 (2.00), sleeper, Portland to Seattle. Examining records of Oregon Land and Water Co. in re frauds in desert lands in La Grande and The Dalles, Ore., land districts. Interviewed F. B. Holbrook in re desert land frauds of Oregon Land and Water Co.

Saturday, the 9th day of October, 1909, headquarters to Seattle, Wash.:

Transfer baggage, hotel to depot, Portland, Ore., .50; fee to Pullman porter (T. R. 21747, sleeper ticket), .25; Seattle to Portland, Ore. (\$2.00). Lv. Portland, Ore., 12.15 a. m.; ar. Seattle, Wn., 9 a. m. Conferring with Spl. Agt. Sheridan & chief of Field Div. Christensen in re Cunningham coal cases. Took advt. M. O. Thompson in re Oregon Land & Water Co. desert land frauds.

Sunday, the 10th day of October, 1909, Seattle, Wn., to Portland, Ore.:

Fee to Pullman porter, Seattle to Portland, .25; transfer of baggage, depot to hotel, at Portland, .50. Lv. Seattle, Wn., 12.05 a. m.; ar. Portland, Ore., 8.45 a. m.

Monday, the 11 day of October, 1909, Headquarters:

Investigating frauds in desert entries in The Dalles & La Grande, Ore., land districts. Examining records & making copies of letters and data in possession of Oregon Land & Water Co.

Tuesday, the 12 day of October, 1909, Headquarters:

At office Oregon Land & Water Co. examining records and making copies of deeds, contracts, letters, etc., in re frauds in desert entries in The Dalles and La Grande, Ore., land districts.

Wednesday, the 13 day of October, 1909, Headquarters:

Copying letters and other evidence in re frauds in desert land entries by Ore. Land & Water Co. in The Dalles & La Grande, Oregon, land districts.

Thursday, the 14 day of October, 1909, Headquarters:

At office Oregon Land & Water Co. arranging papers, letters, etc., in order for report on desert frauds in La Grande & The Dalles, Ore., districts. Begun preparing report on said cases.

Friday, the 15 day of October, 1909, Headquarters:

Made adverse reports on D. L. E. 321 J. G. Gilbert, 312 M. O. Ireton, 289 J. S. Fish.

Saturday, the 16 day of October, 1909, Headquarters:

Conducted & completed hearing in re disbarment of J. W. Draper, Portland district. Submitted case against O. L. & W. Co. to U. S. Atty. for criminal & civil action.

Sunday, the 17 day of October, 1909, headquarters:

Conferring with U. S. attorney for Oregon in re Oregon Land & Water case.

Monday, the 18 day of October, 1909, headquarters:

Took affidavits of E. L. Pettis and E. B. Holmes in re Oregon Land & Water Co. At office Ore. Land & Water Co. getting additional data for U. S. atty.

Tuesday, the 19 day of October, 1909, headquarters:

Made adverse report on D. L. E. 314, F. B. Holbrook 313, E. C. Holbrook. The Dalles, Ore., series and 226 H. D. Mapes, La Grande, Ore., series. Copying additional data in re Oregon Land & Water Co. for U. S. atty.

Wednesday, the 20 day of October, 1909, headquarters:

Made adverse report on D. L. E. 316 J. E. Aitchison, 318 R. Catlin, 302 J. W. Walling, The Dalles series.

Thursday, the 21 day of October, 1909, headquarters:

Made adverse report on D. L. E. 353 F. Lindsley, 357 A. A. Lindsley, 359 M. P. Lindsley, La Grande district. 317 F. Catlin, The Dalles district.

Friday, the 22 day of October, 1909, headquarters:

Making list of overt acts and copies of letters for U. S. attorney in re Oregon Land & Water Co. case. Made adverse report on D. L. E. 290 D. Gaunt, 286 F. W. Wilson. The Dalles series.

Saturday, the 23 day of October, 1909, Headquarters:

Made adverse report on D. L. E. 253 W. R. Parker—360 C. T. Lindsley—331 L. D. Holbrook—all La Grande series; 319 K. B. Gilbert—320 C. N. Hall—311 E. B. Holmes—287 E. Clanton—315 R. F. Hall—310 W. Hansen—all The Dalles, Ore. Made report to chief in re contest R. K. Page vs. unnumbered H. E. in La Grande dist. in connection with Oregon Land & Water Co.

Sunday, the 24 day of October, 1909, Headquarters:

Sunday.

Monday, the 25 day of October, 1909, Headquarters:

Made adverse report on D. L. E. 377 Samuel Carmichael, & on Ind. sch. sel. list 375, State of Oregon, latter being case X-184. Examining letters, etc., relative to Oregon Land & Water Co.

Tuesday, the 26 day of October, 1909, Headquarters:

Took affidvt. W. A. Jones in re Oregon Land & Water Co. At office Ore. Land & Water Co. getting list of papers to be subpoenaed for grand jury.

Wednesday, the 27 day of October, 1909, Headquarters:

R. R. fare to Baker City (\$10.67), sleeper (\$2.50). At office Ore. Land & Water Co. getting data for grand jury investigation of direct frauds. Conferring with U. S. attorney and Reed Grant, field div., in re said frauds. Lv. Portland 6.35 p. m. en route to Baker City, Or. Fare to Baker City, T. R. 21748, sleeper, T. R. 21749.

Thursday, the 28 day of October, 1909, en route to Baker City, Ore., & to Pendleton, Ore..

Fee to Pullman porter en route to Baker City, .25; 'phone message to H. P. Campbell, North Powder, Ore., .25; O. R. & N. fare, Baker City to Pendleton, \$3.75, Pullman seat, .75, total, \$4.50. Ar. Baker City, 8.30 a. m. Interviewed C. A. Moore in re Sch. Ind. Selec., 375 La Grande series. He dictated affidavit to stenographer and swore to same before N. P. Lv. Baker City, Ore., 6.30 p. m. via O. R. & N.; ar. Pendleton, Ore., 11.30 p. m.

Friday, the 29 day of October, 1909, Pendleton, Ore.:

Interviewed J. R. Dickson, Jesse Failing, G. M. Rice, R. Alexander, & J. H. Raley in re Umatilla Irrigation Co. Searched records Umatilla County, Ore., in re transfer by H. D. Mapes of his D. L. E. 226 La Grande series. Telephoned chief at Portland in re Iron Dyke Mining Co.

Saturday, the 30 day of October, 1909, Pendleton to Irrigon, Ore.:

O. R. & N. fare to Irrigon, Ore., from Pendleton, \$1.55. Lv. Pendleton, Ore., 8.40 p. m.; ar. Irrigon, Ore., 10.30 p. m. Made field exam., D. L. E. 318, R. Catlin; 314, F. B. Holbrook; 315, J. W. Walling; 313, E. C. Holbrook, The Dalles series. Took photos of improvements. Interviewed W. R. Walpole, jr., in re Oregon Land & Water Co.

Sunday, the 31 day of October, 1909, Irrigon, Ore., to Portland, Ore.:

Bus fare, depot to hotel, Portland, Ore., .25. Lv. Irrigon, Ore., 10.30 a. m.; ar. Portland, Ore., 6.40 p. m., via O. R. & N. Co. on TR. issued by J. H. Carnahan, Spl. Agt. G. L. O. Interviewed W. R. Walpole, jr., at Irrigon, Ore., in re Ore. Land & Water Co.

Service report for month of October, 1909:

Homestead and desert: Examined in field, bad, 4; reports submitted, bad, 26; preliminary work, affidavits taken, 4; interviews, etc., 6; hours spent in attendance, hearings, 2.

Miscellaneous: Reports submitted, bad, 2; preliminary work, affidavits taken, 2; interviews, etc., 8.

Remarks: As a result of work done on Oregon Land & Water Co. this month the case will be presented to the grand jury Thursday November 4, 1909.

Daily reports, November, 1909.

[All signed "Horace Tillard Jones, Special Agent."]

Monday, the 1 day of November, 1909, headquarters:

At Title Guar. & Trust Co., conferring with R. S. Howard, jr., receiver, in re Ore. Land & Water Co., and examining papers in connection with said water company. Conferring with U. S. atty. in re said cases. Assisting in setting contest cases for hearing. Made out expense account for November.

Tuesday, the 2 day of November, 1909, headquarters:

At office Ore. Land & Water Co., selecting papers to be sent under spa. to U. S. atty for use before grand jury. Took afdvt. G. R. Jones, R. K. Page, R. J. Gorman, A. C. Nelson, I. D. Bushnell, B. D. Ross in re Ore. Land & Water Co.

Wednesday, the 3rd day of November, 1909, headquarters:

Took affidavits of J. W. Walling, J. S. Patterson, C. L. Roadruck, & E. A. Middlebrooks in re Oregon Land & Water Co for use before grand jury.

Thursday, the 4th day of November, 1909, headquarters:

Photos., printing, developing, etc., \$1.80. Took afdvt. D. B. Fiak in re Ind. Sch. Sel. 375, La Grande, Ore., series. Took afdvt. Irving Worthington in re Ore. Land & Water Co. Testified before grand jury in re Ore. Land & Water Co.

Friday, the 5th day of November, 1909, headquarters:

Took afdvt. Walter Hansen in re Oregon Land & Water Co. Testified before grand jury in re Oregon Land & Water Co. from 10 a. m. to 4 p. m.

Saturday, the 6th day of November, 1909, headquarters:

Took afdvt. W. R. Walpole in re Oregon Land & Water Co. Took afdvt. Robt. F. & Clara N. Hall, in re Ore. Land & Water Co.

Sunday, the 7th day of November, 1909, headquarters:

At office of Title Guar. & Tr. Co. looking over account books and minutes of meeting of said company in re Oregon Land & Water Co.

Monday, the 8th day of November, 1909, headquarters:

Took afdvt. C. E. Niles & J. W. Cook in re Oregon Land & Water Co. Interviewed J. H. Hollock & J. T. Whistler in re said Co. with J. McCourt & R. J. Wyatt of the U. S. atty. office. Assisting at presentation of said case to grand jury.

Tuesday, the 9th day of November, 1909, headquarters.

Wednesday, the 10th day of November, 1909, headquarters.

Thursday, the 11th day of November, 1909, headquarters:

Assisting in preparing indictment in Oregon Land & Water Co. case.

Friday, the 12th day of November, 1909, headquarters:

Assisting in preparation of indictment in Oregon Land & Water Co. case.

Saturday, the 13 day of November, 1909, headquarters:

Transfer baggage, house to depot, Portland, Ore., .50. Took afdvt. Warren R. Parker in re his D. L. E. 253, La Grande, Ore., series. Assisting in preparing indictment in Oregon Land & Water Co. case.

Sunday, the 14 day of November, 1909, headquarters to Seattle, Wash.:

Fee to porter en route to Seattle, .25; transfer baggage, depot to hotel, .50. Lv Portland, Ore., 12.15 a. m., ar. Seattle, Wash., 8.30 a. m., via N. P. R. R., see T. R. 21751 (\$5.60). Berth in Pullman en route to Seattle, T. R. 21750 (\$2.00).

Monday, the 15 day of November, 1909, Seattle, Wash.:

Examining & checking reports of Spl. Agts. H. P. Kennedy and Geo. A. Parks on various matters in Seattle, Wash., field division. Conferring with J. M. Sheridan, spl. agt. in re Cunningham coal case.

Tuesday, the 16 day of November, 1909, Seattle, Wash.:

Registered stamp on M. F. Hill letter, .10. Wrote registered letter to M. F. Hill. Goldendale, Wash., for settlement of timber trespass; stamp, 10 cts. Conferring with W. B. Pugh, J. M. Sheridan, & W. M. McGee in re Cunningham coal cases.

Wednesday, the 17 day of November, 1909, Seattle, Wash.:

Examining and checking reports of H. P. Kennedy & Geo. A. Parks, spl. agt. Waiting to testify in Cunningham case.

Thursday, the 18 day of November, 1909, Seattle, Wash.:

Telegram from Chief Field Div. Christensen, .25. Attending hearing in Cunningham cases.

Friday, the 19 day of November, 1909, Seattle, Wash.:

Testified in Cunningham case.

Saturday, the 20 day of November, 1909, Seattle, Wash.:

Attending hearing in Cunningham case.

Sunday, the 21 day of November, 1909, Seattle, Wash.:

Sunday.

Monday, the 22 day of November, 1909, Seattle, Wash.:

Attending hearing in Cunningham case. Wrote letter to chief in re U. S. v. J. T. Ross et al. Wrote letter to chief in re J. W. Draper disbarment. Wrote letter to chief in re Northwest Timber Co. Wrote letter to chief in re N. P. list, No. 13. Al. Portland, Ore., land district.

Tuesday, the 23 day of November, 1909, Seattle, Wash.:

Attending hearing in Cunningham cases.

Wednesday, the 24 day of November, 1909, Seattle, Wash.:

T. R. 36801, berth Portland from Seattle, Wn., (\$2.00). Fare Seattle to Portland; mileage book 5363, Nos. 1 to 186, N. P. R. R. Attending hearing in Cunningham case. Checking proof papers with Chief Field Div. in re miscellaneous Alaska coal cases. Lv. Seattle 10.40 p. m. en route to Portland, Ore.

Thursday, the 25 day of November, 1909, Portland, Ore.:

Fee to Pullman porter en route to Portland, .25. T. R. 36802, berth Portland to Seattle (\$2.00). Mileage, Portland to Seattle, book 5363, N. P. R. R., Nos. 187 to 372. Ar. Portland, Ore., 7.30 a. m. At U. S. atty's office, filing papers, reports, etc., in Oregon Land and Water Co. case in safe.

Friday, the 26 day of November, 1909, Portland to Seattle:

Fee to Pullman porter en route to Seattle, .25. Lv. Portland, Ore., 12.15 a. m.; ar. Seattle, Wn., 8.30 a. m., via N. P. R. R. Attending hearing in Cunningham coal case.

Saturday, the 27 day of November, 1909, Seattle, Wash.:

Attending hearing in Cunningham cases.

Sunday, the 28 day of November, 1909, Seattle, Wash.:

Sunday.

Monday, the 29 day of November, 1909, Seattle, Wash.:

Assisting Special Agent Stoner in getting dates of powers of attorney and location notices of various coal claimants in Alaska.

Tuesday, the 30 day of November, 1909, Seattle, Wn.:

Service report for month of November, 1909.

Homestead and desert affidavits taken, 18; interviews, etc., 2. Attendance in court, 9 hours. Ind. selec., affidavits taken, 1. Coal selec., hearings, 30.

As a result of proceedings before grand jury in re Oregon Land & Water Co., J. T. Ross, J. E. Aitchison, and F. B. Holbrook were indicted under sec. 5441, R. S. U. S.

Daily reports, December, 1909.

[All signed "Horace Tillard Jones, special agent."]

Wednesday, the 1 day of December, 1909, Seattle, Wn.:

Transfer baggage, hotel to depot at Seattle, Wn., .50. Sleeper, Seattle to Spokane, T. R. 36803 (\$2.50). Mileage (Seattle to Spokane) book 5363-372 to 711, N. P. R. R. Lv. Seattle 7.10 p. m., via N. P. R. R., en route to Spokane, Wn.

Thursday, the 2nd day of December, 1909, Spokane, Wash.:

Fee to porter, .25. Transfer baggage, depot to hotel (trunk & grip), .75. Attending hearing in Cunningham coal case.

Friday, the 3 day of December, 1909, Spokane, Wash.:

Attending hearing in Cunningham coal cases.

Saturday, the 4 day of December, 1909, Spokane, Wash.:

Attending hearing in Cunningham coal cases.

Sunday, the 5 day of December, 1909, Spokane, Wn.:

Sunday.

Monday, the 6 day of December, 1909, Spokane, Wn.:

Attending hearing in Cunningham coal cases.

Tuesday, the 7 day of December, 1909, Spokane, Wn.:

Attending Cunningham hearing.

Wednesday, the 8 day of December, 1909, Spokane, Wash.:

Attending Cunningham hearing.

Thursday, the 9 day of December, 1909, Spokane, Wash.:

Attending hearing in Cunningham cases.

Friday, the 10 day of December, 1909, Spokane, Wash.:

Attending hearing in Cunningham cases.

Saturday, the 11 day of December, 1909, Spokane, Wash.:

Attending Cunningham hearing.

Sunday, the 12 day of December, 1909, Spokane, Wash.:

Sunday.

Monday, the 13 day of December, 1909, Spokane, Wn., en route to Seattle, Wn.:

Transfer trunk & grip hotel to depot, Spokane, \$.75; N. P. R. R. fare Spokane to Seattle; mileage book 5363, Nos. 712 to 1050; Pullman, Spokane to Seattle, T. R. 36804. (\$2.50.) Attending Cunningham hearing. Lv. Spokane 7 p. m. via N. P. R. R., en route to Seattle, Wn.

Tuesday, the 14 day of December, 1909, Seattle, Wn.:

Fee to Pullman porter, Spokane to Seattle, \$.25; Pullman, Seattle to Portland, T. R. 36805; (\$2.00.) N. P. Ry. fare to Portland from Seattle & mileage book 5363,

Nos. 1051 to 1236. Examining files at superior court, Seattle, Wash., in re suit of Clarence Cunningham vs. Watson Allen.

Wednesday, the 15 day of December, 1909, Portland, Ore.:

Fee to Pullman porter, .25. Transfer of trunk from depot to house, Portland, Ore., .50. Telegram to chief at Heppner, Ore., .25. Ar. Portland, Ore., 7.15 a. m. Interviewed D. B. Fisk & M. Jacobs in re state selec. 375, State of Oregon. Reading over statement of fact in case of Cunningham vs. Allen for information in re Alaska coal cases.

Thursday, the 16 day of December, 1909, Portland, Ore.:

At office U. S. atty. making abstract of pending civil & criminal cases in circuit & district courts.

Friday, the 17 day of December, 1909, Portland, Ore.:

At office U. S. attorney making abstract of pending cases, civil & criminal, in U. S. district & circuit courts.

Saturday, the 18 day of December, 1909, Portland, Ore.:

At office U. S. attorney making abstract of pending cases in circuit & district courts for district of Oregon. Wrote A. Tennant, Seattle, Wn., returning papers in case of Cunningham vs. Allen. Wrote J. M. Sheridan, spl. agt. G. L. O., transmitting extract from record of Cunningham vs. Allen.

Sunday, the 19 day of December, 1909, Portland, Ore.:

Sunday.

Monday, the 20 day of December, 1909, Headquarters:

At office U. S. atty. making abstract of pending cases in U. S. district & circuit courts for district of Oregon.

Tuesday, the 21 day of December, 1909, Headquarters:

At office U. S. atty. making abstract of pending cases in U. S. district & circuit courts for district of Oregon.

Wednesday, the 22 day of December, 1909, Headquarters:

Examining Portland, Oregon, land office.

Thursday, the 23 day of December, 1909, headquarters:

Examining Portland, Ore., land office. Making report on same.

Friday, the 24 day of December, 1909, headquarters:

Completed report on Portland, Oregon, land office.

Saturday, the 25 day of December, 1909, headquarters:

Xmas.

Sunday, the 26 day of December, 1909, headquarters:

R. R. fare Portland to Roseburg, mileage book 1763, O. R. & N. Co., 1 to 199. Sleeper, see T. R. 36806 (\$2.00). Sunday.

Monday, the 27 day of December, 1909, Portland to Roseburg, Ore.:

Fee to Pullman porter, .25. Telegram to A. D. B. Kop, .25. Lv. Portland 1.15 a. m., ar. Roseburg 9.15 a. m. via S. P. R. R. Examining Roseburg, Ore., land office.

Tuesday, the 28 day of December, 1909, Roseburg to Portland:

Pullman berth Roseburg to Portland, T. R. 36807 (\$2.00). Fare Roseburg to Portland, mileage book 1763, O. R. & N., 200 to 398. Examining Roseburg, Oregon, land office. Lv. Roseburg 11.20 p. m. en route to Portland, Ore.

Wednesday, the 29 day of December, 1909, headquarters:

Fee to Pullman porter en route to Portland, .25. Ar. Portland, Ore., 7.30 a. m. Making report on Roseburg, Ore., land office.

Thursday, the 30 day of December, 1909, headquarters.

Friday, the 31 day of December, 1909, headquarters.

Mr. BRANDEIS. Please state your full name, Mr. Jones.

Mr. JONES. Horace Tillard Jones.

Mr. BRANDEIS. And you reside where?

Mr. JONES. Portland, Ore.

Mr. BRANDEIS. You are a special agent of the Land Department

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And how long have you been in that position?

Mr. JONES. Since August, 1903.

Mr. BRANDEIS. You are an attorney at law?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And how long since you were admitted to the bar?

Mr. JONES. I was admitted in September, 1901.

Mr. BRANDEIS. What was your occupation before you went into the Land Office?

Mr. JONES. I examined titles for the Columbia Title and Insurance Company, Washington, D. C.

Mr. BRANDEIS. And how long were you engaged in that capacity?

Mr. JONES. I was examining titles about two years prior to my employment as special agent.

Mr. BRANDEIS. What were your headquarters in June, 1907?

Mr. JONES. Portland, Oreg.

Mr. BRANDEIS. And with what division were you connected?

Mr. JONES. I was working under the instruction of Special Agent T. B. Newhausen; he was the Secretary's special inspector.

Mr. BRANDEIS. Under date of June 21, 1907, you received certain instructions from the Acting Commissioner of the General Land Office to investigate the Alaska coal claims; that has already been put in evidence?

Mr. JONES. I received the letter about the 27th; it was dated the 21st.

Mr. BRANDEIS. Had you prior to the receipt of that letter had any connection whatsoever with the Alaska coal claims?

Mr. JONES. No, sir.

Mr. BRANDEIS. Will you refer now to that letter which appears at page 22 of the chronological list of orders and state what you did first in pursuance of the instructions contained in that letter?

Mr. JONES. I went over to the office of the United States attorney for the district of Oregon for the purpose of getting the different statutes relative to a criminal proceeding in case of conspiracy and perjury, etc., and also any data on the rules and regulations concerning coal lands, and while over there I met Mr. L. R. Glavis, who was working on some coal cases in the State of Washington—the lands being in the State of Washington, but he was taking testimony in the State of Oregon with Mr. Hoyt; and I asked him for all the information he could give me concerning the laws relative to the acquisition of coal lands in Alaska.

Mr. BRANDEIS. Do you know what date that was?

Mr. JONES. That was about June 28 or 29.

The CHAIRMAN. 1907?

Mr. BRANDEIS. 1907?

Mr. JONES. 1907.

Mr. BRANDEIS. I will now introduce the daily reports of Mr. Jones for June 28, 1907 [reading]:

Reading up cases in re conspiracy, etc.; conferring with L. R. Glavis, chief of field division No. 2, in re specific cases of fraud in coal lands in Alaska—

said cases being referred to me by Glavis in conjunction with the investigation ordered by a letter addressed to me June 21, 1907, "T." H. H. S. No. 38231.

The CHAIRMAN. That report is admitted in evidence.

Mr. BRANDEIS. July 29, "Reading decisions relating to coal-land frauds: conferring with L. R. Glavis, chief field division No. 2."

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. The 30th was Sunday.

July 1, 1907, "Reading decisions of Secretary of the Interior and United States Federal Reports in re conspiracy cases under section 5440, Revised Statutes of the United States."

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. July 2, the same.

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. July 3, "Reading decisions of the Secretary of the Interior in re coal lands and of the United States Federal Reports in re conspiracy cases under section 5440, Revised Statutes of the United States."

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. "Arranged in alphabetical order this list of coal claims in Alaska, as per list transmitted from G. L. O., with letter "P." H. H. S. 38231 of June 21, 1907."

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. July 4 was a holiday.

July 6, "Reading decisions and rules in re coal-land cases; preparing for trip to Alaska; left Portland 11.45 p. m. en route to Seattle."

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. July 8, "Delayed waiting inspection of steamer en route to Alaska."

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. July 9, "En route to Alaska; July 10, en route to Juneau, Alaska."

The CHAIRMAN. Do you want those in?

Mr. BRANDEIS. I would like those to show.

The CHAIRMAN. Do you want to put those in the record?

Mr. BRANDEIS. They are a few of these that are not wanted.

The CHAIRMAN. Specify just what you want in the record, so that the stenographer may know what to incorporate in the record.

Mr. BRANDEIS. July 20, "En route to Seattle, Wash."—this is from Juneau—"Arrived Seattle, Wash., 12 p. m."

The CHAIRMAN. That is admitted.

Mr. BRANDEIS. What did you do, Mr. Jones, in Seattle with reference to the investigation of the Alaskan coal cases?

Mr. JONES. After returning from Alaska while at Juneau I had made inquiries as to where Mr. Love might be, and I wanted to get all the information I could from him relative to his former investigation of these coal-land matters, and I was told that he was stopping at a certain address in Seattle.

The CHAIRMAN. Mr. Brandeis, may I ask him a question here?

Mr. BRANDEIS. Certainly.

The CHAIRMAN. Where did you go in Alaska?

Mr. JONES. Juneau—to the United States land office at Juneau, Alaska.

Mr. BRANDEIS. Will you tell to the members of the committee somewhat more fully what you did while you were in Alaska?

The CHAIRMAN. That is all; go on.

Mr. JONES. I went to Alaska for the purpose of getting a list of the addresses of the respective coal claimants, and also for the purpose of seeing what papers had been filed in the applications, and to see how far the cases had progressed—that is, to see the status of them, and I was there four days. Then I returned to Seattle for the purpose of making the investigation. Most of the parties lived in the States.

Mr. BRANDEIS. It appears that you arrived on Saturday in Seattle.

Mr. JONES. Yes, sir. On Sunday I went up to see Mr. Love for the purpose of getting his ideas and opinions and the extent of his knowledge of the coal cases, and he said that his wife was ill and he would like to stay in Seattle as long as he could, and I suggested that he probably could assist me in examining these cases, taking affidavits of the respective coal claimants, inasmuch as he had a more thorough knowledge of the facts in the cases than I had at that time.

Mr. BRANDEIS. Did you at about that time call on Mr. Ballinger?

Mr. JONES. Yes, sir. I made an engagement with Mr. Love to take him down to see Mr. Ballinger the next day, Monday morning.

Mr. BRANDEIS. In pursuance of what information, if any, did you call on the commissioner at that time?

Mr. JONES. I had been told by Mr. Glavis that the commissioner wanted to see me.

Mr. BRANDEIS. And you did call on him?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. On Monday, the 22d?

Mr. JONES. The 22d of July.

Mr. BRANDEIS. With Mr. Love?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. You knew Mr. Ballinger before that time, did you, Mr. Jones?

Mr. JONES. No, sir; I had never met him.

Mr. BRANDEIS. State what occurred at that interview.

Mr. JONES. I made myself known to Mr. Ballinger, and also introduced Mr. Love, and stated Mr. Love's position and his desire to assist in the work, and then we talked over the coal-land laws and regulations—Mr. Love, Mr. Ballinger, and myself.

Mr. BRANDEIS. What was said, if anything, in regard to the work which was to be done in investigating these cases?

Mr. JONES. Well, I could not say what conversation occurred, except in a general way, on the 22d, but I was at Mr. Ballinger's office at numerous times during the week I was in Seattle.

Mr. BRANDEIS. What office was this—the land office at Seattle?

Mr. JONES. No, sir; it was the office of Ballinger, Ronold, Battle & Tennant, in the Alaska Building, ninth floor.

Mr. BRANDEIS. And all the interviews with Mr. Ballinger to which you will refer as having taken place at Seattle were at his own office or in the building?

Mr. JONES. In the building; yes, sir.

The CHAIRMAN. Was he commissioner at this time?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. This was in July, 1907; he was appointed commissioner on the 4th of March, 1907.

Now, Mr. Jones, you say that you had numerous interviews with him during the week that you were in Seattle. Were you there only a week about that time?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Where did you go from there?

Mr. JONES. I went to Portland, Oreg., and to Spokane, Wash.

Mr. BRANDEIS. And you returned to Seattle how soon?

Mr. JONES. I returned to Seattle about the 6th of August.

Mr. BRANDEIS. And how long were you in Seattle after that?

Mr. JONES. I was there about four or five days.

Mr. BRANDEIS. Did you see Commissioner Ballinger during those four or five days?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. More than once?

Mr. JONES. Yes, sir; I saw him three or four times; I went over there quite frequently.

Mr. BRANDEIS. Well, now, were you alone or in company with any other person at these various interviews with Mr. Ballinger?

Mr. JONES. Why, oftentimes Mr. Love was with me, and on two or three different occasions I would go over alone.

Mr. BRANDEIS. Were all of those interviews which you have referred to interviews concerning the Alaska coal cases—all that you had in mind in this testimony in saying that you had had numerous interviews?

Mr. JONES. Well, there was one interview in regard to some Oregon cases that did not refer to the Alaska cases.

Mr. BRANDEIS. But with the exception of that single interview everything related to the investigation that you had undertaken in relation to the Alaska coal cases.

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Now, was there any interview in which you had any particular conversation with him in regard to Mr. Love and his relations to the investigations you had under way?

Mr. JONES. Yes. On one occasion Judge Ballinger and I were coming down from his office, and while waiting for the elevator I told the judge that Mr. Love appeared to be half-hearted in this investigation, and that it was probably due to the fact that he was a candidate for the office of United States marshal in a proposed new judicial district in Alaska, and I recited to the judge a conversation that Mr. Love had with me.

Mr. BRANDEIS. Will you give us that conversation?

Mr. JONES. In which he said that he was glad that I had been put on this case, or some other agent than himself had been put on this Alaska investigation, because it embarrassed him a great deal to be investigating friends and persons to whom he happened to be under certain obligations in Alaska; that H. R. Harriman, who represented the Clark, Davis and Lippy combination of coal claims, was a personal friend of his and of his family, and that when one is investigating cases in Alaska and traveling around he has to partake of the hospitality of these very people who are under suspicion, and that if they make it unpleasant for you you can not go next door and stop at another hotel as you can in the States, you have got to either take what they give you or sleep outdoors. And he seemed to be very much relieved at being taken off the cases.

Mr. BRANDEIS. That is, Mr. Love was?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. You reported all of that to Mr. Ballinger?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. When was that report made to Mr. Ballinger with reference to the time when you left Seattle for Portland and Spokane, before or after that date?

Mr. JONES. It was made during some of the earlier visits to his office before leaving for Portland.

Mr. BRANDEIS. What did Commissioner Ballinger say when you made that report to him about Mr. Love?

Mr. JONES. I commented that I did not think that was the proper spirit for an investigator to have toward his work, and he agreed with me that it was not.

Mr. BRANDEIS. Was there anything said by you as to your reluctance in giving him that information?

Mr. JONES. I told him it was not in the nature of carrying tales out of school, or trying to prejudice him against Mr. Love, but that I thought that it was proper that he should know Mr. Love's attitude in the cases.

Mr. BRANDEIS. I refer now to certain of the daily reports of Mr. Jones, one of July 22, 1907:

Conferring with honorable Commissioner G. L. O. and Special Agent H. K. Love in re coal land applications in Alaska.

July 23, 1907, getting addresses of coal-land applicants.

The CHAIRMAN. Do you offer those in evidence?

Mr. BRANDEIS. I offer these that I am reading. I have offered in evidence the Jones reports, which I have handed to the stenographer, but I am only reading certain portions of them which it seems necessary to call your attention to at this time.

The CHAIRMAN. You have offered all of them?

Mr. BRANDEIS. Yes, sir; all of them.

The CHAIRMAN. Very well. They will all be admitted.

Mr. BRANDEIS. And they have been delivered to the stenographer [reading]:

July 24, getting addresses of applicants for coal lands in Alaska, as listed by H. K. Love, special agent, G. L. O.

Twenty-fifth the same.

Twenty-sixth the same.

Twenty-seventh, "Took affidavit of John R. Young in re his coal claim D. S. No. 367."

Was John R. Young one of the coal-land claimants?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Was there anything special in regard to that affidavit or the form in which the affidavit was given.

Mr. JONES. Well, Mr. Love and I went down to Mr. Young's office and took his statement, and at first Mr. Love wanted him to sign an iron-clad affidavit that he had drawn up himself, where the party said that no one save himself had any interest in the coal claim in any way, shape, or form, either expressed or implied, but Mr. Young wanted to make out a more full affidavit according to his own ideas.

Mr. BRANDEIS. The 28th was Sunday. "July 29, 1907: Interviewed M. A. Green and W. V. Reinhart in re Alaska coal-land entries."

It also appears that on that day, July 29, you left for Portland. Now, Mr. Jones, what was the nature of these numerous conferences which you had with Commissioner Ballinger during that period?

Mr. JONES. I was keeping him fully informed as to the progress of the work, giving him an idea of how we were progressing and what our difficulties were; and any time a question would arise as to the construction of certain parts of the law, I would go to him for his ideas concerning it.

Mr. BRANDEIS. Did you report to him along also from day to day as to the facts which you were eliciting from the coal claimants?

Mr. JONES. At each of my visits there to him I would recount to him the different facts I had gathered from the claimants.

Mr. BRANDEIS. Were those visits on different dates?

Mr. JONES. Sometimes I would go there two or three times a day, and then sometimes a day might elapse before I would visit him again.

Mr. BRANDEIS. Now, was anything said at any of these conferences with Commissioner Ballinger as to the extent of the investigation which you were to make?

Mr. JONES. After going about Seattle for a couple of days hunting for these claimants I realized that it was going to take a long while to complete this investigation, and I went to Judge Ballinger and told him about the difficulties and I asked him what method he thought would be best to pursue in order to complete the investigation, and he said, "Well, Mr. Jones, you have been in the land service longer than I have and you probably know more about the procedure than I do in these investigations." I told him that if I pursued my own course it would take a very long while, six months or more; that I believed it best to interview each individual claimant and get his opinion and get his intention at the time he took up the coal claims; but Mr. Ballinger said he wanted to be in a position to appear before the congressional committee when Congress convened and move for remedial legislation for the coal-land claimants in Alaska, and in order to be able to talk intelligently on this he would like to be able to have an idea of what these groups and different individuals were intending to do with their claims. So then I told him that I thought it would be proper and sufficient to interview two or three of each one of the two or three different groups, two or three entrymen of each group, and thus find out what their intention was for a combination. You see, each one of these groups was located; John Smith, for instance, would get powers of attorney from 50 to 100 individuals and go up and locate the coal claims, and we would call them the Smith group, etc. We called them according to the names of the attorneys, and it was presumed that each one of these groups was going to combine and work the claims together, and it was thought that if several of them were interviewed you could establish that point either affirmatively or negatively.

Mr. BRANDEIS. Did you not understand your instructions of June 21, 1907, to direct you to make a thorough and complete investigation, and to devote yourself to that to the exclusion of all other business?

Mr. JONES. Yes; I also understood——

Mr. BRANDEIS. Did you do that?

Mr. JONES. I also understood the instructions to be that I should keep the commissioner advised of the progress of the investigations, and I did both of them, according to my idea; and when I made the suggestion to the commissioner he agreed with it, and I considered that to be sufficient authority to go ahead.

Mr. BRANDEIS. That is, you considered that a modification of the original direction given you?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. To make a thorough and complete investigation of the case?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Were you not attached and subject to the direction of some chief of the field division?

Mr. JONES. No, sir; I was acting directly under orders of the office here at Washington.

Mr. BRANDEIS. Then you took the directions which Mr. Ballinger gave you as express directions and instructions in regard to the action in these cases?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Now, was anything said to you by Mr. Ballinger in regard to the making of a report?

Mr. JONES. After I got back from my trip to Portland and Spokane I went to Judge Ballinger's office and told him the results of the trip, and took the affidavits—the originals of the affidavits that I had taken—over to him and was showing them to him, and he told me to make out a report on the cases and he could look over the whole matter at one time without—

Mr. BRANDEIS. Did he say anything to you as to when he desired that report rendered?

Mr. JONES. He said he wanted it before he left Seattle; he expected to leave Seattle in a short while, and that was why I curtailed my trip over to Spokane and Portland.

Mr. BRANDEIS. Then he had notified you before you went to Portland that he was purposing to leave for California and desired a report from you, had he?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. You returned from Spokane on the 6th of August, was it?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And how soon after that did you see Commissioner Ballinger?

Mr. JONES. I saw the judge, I think it was the next day, or the same day I arrived in Seattle.

Mr. BRANDEIS (reading):

Daily report of August 6, 1907. Arrived at Seattle, Wash., 2.30 p. m.; conferred with honorable commissioner G. L. O. and H. K. Love, special agent, G. L. O., in re Alaska coal land investigation.

That is the conference you have referred to as having been had then?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Now, on the 8th of August your daily report says: "Had conference with honorable commissioner G. L. O., H. K. Love, special agent, G. L. O., and C. F. Mundy, attorney at law, concerning the Stracey coal lands in Alaska; made typewritten copies in duplicate of affidavits," etc. What was the subject-matter of that conference?

Mr. JONES. Why, Mr. Mundy was attorney for a group of coal claimants in Alaska who were formerly located by an Englishman named Algernon H. Stracey, and Mundy was putting up the money for these claimants, and he wanted to get some kind of lease or something from them that would bind them, but which would be within the letter of the law.

Mr. BRANDEIS. Now, was Mr. Mundy present at this conference between you and Love and the commissioner?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And were the rights of parties discussed at any length by the commissioner with you three?

Mr. JONES. Yes, sir; the whole question of the law relative to coal claimants in Alaska was gone over.

Mr. BRANDEIS. That is the question of combination, the question of an agreement and understanding to combine individual claims?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Now, you stated that the commissioner desired you to submit in writing your report of the investigation?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And that you had done so. Do you refer to the report of August 10, 1907, which has been put in evidence?

Mr. JONES. I do.

Mr. BRANDEIS. What did you do with that report? I see it is addressed to the Commissioner of the General Land Office.

Mr. JONES. I took it over and showed it to Judge Ballinger and my impression is that I left a copy of it with him, but I can not be certain of that. But I sent the original to the General Land Office at Washington, D. C.

Mr. BRANDEIS. And that report refers to a large number of affidavits, I think some 25, which you had taken as sample affidavits of the various groups?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Were copies of those affidavits or duplicate originals delivered to Mr. Ballinger or shown to Mr. Ballinger at that time?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. They were?

Mr. JONES. Yes, sir.

Mr. McCALL. Is that report printed on page 23 of the record, this special document?

Mr. BRANDEIS. That is special report of August 10, 1907, on page 27 of the chronological group.

Mr. GRAHAM. One of the groups there is referred to as the Stacey. Is that the one that he refers to now as the Stracey group, and which is right?

Mr. JONES. Stracey.

Mr. BRANDEIS. Stracey is correct. Now, I notice also among the groups as to which you submitted affidavits, the "C. Cunningham group;" I suppose the Clarence Cunningham group?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Was there any discussion at any time in these conferences in relation to any matters arising in the Cunningham group?

Mr. JONES. Our conference prior to my leaving for Portland, Oreg. Mr. Love and I had told Judge Ballinger all that we knew up to that time concerning the respective claims in Alaska there, and the Cunningham claim came up for discussion, as did also the Clark-Davis and Lippy combination, but just what was said about it I can not remember at this time.

Mr. BRANDEIS. At least this was said; the matter particularly of the Mullin entry was discussed?

Mr. JONES. Ignatius Mullin; yes, sir.

Mr. BRANDEIS. That was one of the Cunningham group?

Mr. JONES. Yes, sir. Ignatius Mullin was the son of the receiver of the Juneau, Alaska, land office.

Mr. BRANDEIS. And he was one of the 33 claimants in the Cunningham group?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. That matter was especially discussed?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Now, in regard to the matter that came up with respect to Mr. Mundy, the discussion of law, or at least one of the discussions, at which Mr. Mundy was present, was a discussion of the general questions of law that have since arisen, or then had arisen, in the Cunningham group and in others?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. By whom was that report of August 10 signed?

Mr. JONES. It was not signed by anyone when it first went in. I inadvertently neglected to sign it, but subsequently I signed it and sent it on.

Mr. BRANDEIS. Was there any design that it should be signed by anyone besides yourself?

Mr. JONES. Mr. Love was present in the room in the United States Land Office where I prepared the report when I made it out, and I asked him before preparing it if he would not sign it with me; would not make a joint report. He said no; he did not want to have anything to do with it.

Mr. BRANDEIS. Did he give you any reason why?

Mr. JONES. It was the same reason he had given for being relieved, not having to make the investigation, that he did not want to—

Mr. BRANDEIS. As a matter of fact, did not Mr. Love assist you actually in the physical preparation of that report when you were getting up that report?

Mr. JONES. He was present when I prepared it and he had taken a number of the affidavits upon which the report was based, and part of the information contained in the report was gathered by him.

Mr. BRANDEIS. Did he know and did he read the report?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Was anything said by him at that time before the report had been sent away in regard to his getting a copy of the report?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. What was it?

Mr. JONES. He asked me for a copy of the report and the affidavits for the use of his files in Juneau, as he said that these claims would be put up for patents, patents would be applied for, and he wanted to know what the office had on it, what these affidavits were about.

Mr. BRANDEIS. Did you give him a copy of that report?

Mr. JONES. I think I did, but I am not positive.

Mr. BRANDEIS. Was there any conference with Commissioner Ballinger as to the propriety of your giving him a copy of that report?

Mr. JONES. Yes, sir; I spoke to Mr. Ballinger about it and he agreed that it was all right to let him have it; but I can not recollect whether I let him have it or not.

Mr. BRANDEIS. I refer you now to a report made by H. K. Love under date of August 2, 1907, dealing specifically with Cunningham claims, which appears on page 25 of chronological list of orders and letters. When did you first learn of the making of that report?

Mr. JONES. I think it was about December, 1908, when Mr. Glavis, who was at that time my chief, told me about it.

Mr. BRANDEIS. 1908 or 1907?

Mr. JONES. December, 1907.

Mr. BRANDEIS. 1907?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. That is, after Mr. Glavis returned from Washington, when the charge of the Alaska cases was committed to him?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Did not Mr. Love ever say anything to you about the making of that report?

Mr. JONES. No, sir.

Mr. BRANDEIS. Did Mr. Ballinger say anything to you about the making of that report?

Mr. JONES. No, sir.

Mr. BRANDEIS. You made also another report on the Cunningham coal cases, of August 13, 1907, which appears on page 30 of the chronological list. What was done with that report?

Mr. JONES. That was sent to Washington, D. C., to the General Land Office.

Mr. BRANDEIS. And did you do anything further in relation to the—allow me to have that report a moment. That report closes with the words "I would therefore again recommend that those entries be carefully investigated by an experienced and fearless agent." That is on page 37. Did you receive any instructions from Commissioner Ballinger, or anyone else acting for him, in regard to the continuation or resumption of the investigation of the Alaska coal cases prior to the time in December, 1907, when Mr. Glavis was given charge of that investigation?

Mr. JONES. No, sir; I was transferred to Salt Lake City, Utah, after I finished my part of it.

Mr. BRANDEIS. Are you able to fix the date when you were transferred?

Mr. JONES. I think the order of transfer came some time between the middle of August and the 1st of September, 1907.

Mr. BRANDEIS. And did you actually make the transfer then or was there delay?

Mr. JONES. No; I asked for a delay of thirty days and it was granted, and the matter subsequently turned so that I was retained in Oregon, and I never went to Utah.

Mr. BRANDEIS. Was this delay that you asked on personal grounds?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. It had nothing to do with these Alaska cases?

Mr. JONES. No, sir; it was for family reasons.

Mr. BRANDEIS. And your retention in Portland, was that due to or connected in any way with Mr. Glavis becoming Chief of the Field Division?

Mr. JONES. Yes, sir. About the 1st of October or somewhere along there he became chief of the field division in Portland, and I was supposed to work under him. I told him I desired to work in Oregon, and he said he would be glad to have me, as I had been there so long that I probably knew considerable about the affairs of the State of Oregon in respect to the public lands, and he sent a telegram to Washington asking them to retain me in Oregon.

Mr. BRANDEIS. Did you take up with Mr. Glavis in any way the question of the continuation or resumption of the investigation of the Alaska coal cases?

Mr. JONES. Yes, sir; I told him all about it, and I asked him if he had heard anything about them. I had seen him two or three times during the course of the investigation and used to talk with him about coal matters. He had quite a knowledge about the coal laws, and after he became chief I asked him about these cases, and he said he would try to have the investigation resumed, and I would prod him up now and then and ask him what they were doing with those cases; that I thought they ought to be investigated before the statute of limitations ran against any criminal prosecution, and he would keep me advised of the progress.

Mr. BRANDEIS. You also prepared an additional report under date of November 1, 1907, that had been put in evidence.

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And which was transmitted by Mr. Glavis in connection with his letter under date of November 5, 1907, in which the taking up of these Alaska coal cases was urged.

Mr. JONES. Yes, sir; that was on the Anglo-American cases, I think.

Mr. BRANDEIS. Now, when did you next perform any service in connection with the Alaska coal cases, and at whose request?

Mr. JONES. As near as I can recollect it was in March, 1908, at the request of Mr. Glavis. I received orders to meet him at Spokane, Wash., and we went from there to Wallace, Idaho, and took numerous affidavits, four or five, and from there we went across to Seattle and took the affidavits of Clarence Cunningham and got his journal and ledger and other data.

Mr. BRANDEIS. Then from that time on how long were you connected with these investigations?

Mr. JONES. I was, I think, off and on, on them about two months.

Mr. BRANDEIS. There has been some testimony here of a certain conversation with ex-Governor Miles C. Moore at the time of the taking of Clarence Cunningham's affidavit, about on the same day of the taking of Clarence Cunningham's affidavit, of March 6, 1908. Were you present at that time?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And did you hear the conversation or any part of the conversation with ex-Governor Miles C. Moore?

Mr. JONES. I heard him say that if it had not been for Glavis we would have had the patents to these claims and he appeared to be very much wrought up about it, and we feared for a while that we would not get Mr. Cunningham's affidavit and that Mr. Moore might bring pressure to bear on Cunningham that would prevent us from getting his affidavit.

Mr. BRANDEIS. There has been also some testimony in connection with the investigation of certain of these coal cases in the spring of 1908, with reference to the possible commencement of criminal proceedings, the matter which was taken up with United States Attorney Elmer Todd. Did you have anything to do with that?

Mr. JONES. Yes, sir; I took the matter up with Mr. Todd.

Mr. BRANDEIS. At whose direction?

Mr. JONES. Mr. Glavis.

Mr. BRANDEIS. State what you did.

Mr. JONES. We went to Juneau, Alaska, for the original records in the coal cases of Christopher and Simmons, wherein it appeared that perjury had been committed, and also a conspiracy under section 5440 of the Revised Statutes; that you could make a case of conspiracy against the parties to defraud the Government of its public lands. And I had a conference with Mr. Todd and he told me it was useless to bring the matter up before the court, because Judge Hanford was constitutionally opposed to land-fraud trials generally and he would not take action on the case, and that he, Todd, did not want to be humiliated by taking the case up with Judge Hanford. and he advised me to submit the matter to the Commissioner of the General Land Office and have him confer with the Attorney-General of the United States and get the Attorney-General to direct him, Todd, to bring proceedings against these parties. I also did the same thing with respect to a group of claims around where the parties lived at Spokane, Wash., with the United States attorney there, and he said it would be very difficult.

Mr. BRANDEIS. What was the name of the United States attorney?

Mr. JONES. I do not remember his name, but I took it up with his assistant; he referred me to his assistant. He is not the United States attorney now. His term expired some time ago.

Mr. BRANDEIS. What did you do with the information which you got and the advice from United States Attorney Todd and the other district attorney?

Mr. JONES. I reported to Mr. Glavis.

Mr. BRANDEIS. You stated that you were engaged during a couple of months, March and April, 1908, from time to time, on these Alaska cases. When next afterwards—and this was in May that you took up this matter.

Mr. JONES. I think it was April or May.

Mr. BRANDEIS. Now, when did you next have any connection with the investigation of Alaska coal cases, so as far as you can recall?

Mr. JONES. So far as I can recall, with the exception of perhaps some conversation I might have had with Glavis as to why the cases were not being pushed—I had several conversations with him and asked him why the cases were not being investigated and why he stopped the investigation. He said they were waiting for legislation; they were not going to take any action on the cases until this congressional business was over, and that they did not know what Congress was going to do and did not want to go ahead with the investigation until that was over. That was his instructions, he said. I next was connected with the cases, I think, in June, 1909.

Mr. BRANDEIS. What was your connection at that time, and where?

Mr. JONES. I went to Seattle to assist Mr. Glavis in preparing these cases for report.

Mr. BRANDEIS. How long were you occupied there?

Mr. JONES. I think I was there ten days.

Mr. BRANDEIS. What did you do after that?

Mr. JONES. Went back to Portland and resumed the investigation of the Oregon cases.

Mr. BRANDEIS. Was there anything in the condition of business at Portland which made it necessary for you to return to Portland at that time?

Mr. JONES. No more so than at any other time that I could see. There were numerous agents there and they could have put them on the work.

Mr. BRANDEIS. That is, there was no work which was specially your work that had to be done by you, as distinguished from some other special agent.

Mr. JONES. No, sir. The new chief was rather inexperienced and wanted to get advice and instructions, but he could have detailed some other agent on the work just as well.

Mr. BRANDEIS. Who was that chief?

Mr. JONES. Mr. Andrew Christensen.

Mr. BRANDEIS. Was anything said to you during the time of those ten days when you were in Juneau in regard to the Alaska cases going to hearing and your connection with them in that event?

Mr. JONES. Mr. Glavis said he thought some of those cases would be set for hearing late in the fall, and that it was a foregone conclusion that I would come up and assist him in the cases and we would have quite a trip around the country generally.

Mr. BRANDEIS. During this period in June when you were in Seattle assisting in the Alaska coal cases, did you take any affidavit or have any interviews relating to the Alaska coal cases?

Mr. JONES. Yes, sir; I had interviews and was present at interviews and took affidavits of M. A. Green, D. A. McKenzie, H. R. Harriman, William H. Mackey, Capt. E. J. Rathbone, and numerous other persons, and also with S. W. Echols, I think, who represents the Guggenheim syndicate.

Mr. BRANDEIS. Were any statements made by any of those persons at that time which were not embodied in the affidavits which they themselves signed?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And which were afterwards embodied in the affidavits signed by you and Mr. Glavis?

Mr. JONES. Yes.

Mr. BRANDEIS. By whom were such statements made?

Mr. JONES. Donald McKenzie came down to our office one evening about 7 o'clock, and we had a new stenographer there, and she was taking down his statement concerning the claims up there, and he would turn to her and say, "Now, don't put this down," and then tell us some little outside fact, you know, and the stenographer would obey his instructions and would not take it down.

Mr. BRANDEIS. Instead of obeying yours to take them all down?

Mr. JONES. Yes, sir. So that in that way it was not embodied in his original affidavit.

Mr. BRANDEIS. And did you subsequently embody that in an affidavit?

Mr. JONES. Yes, sir.

Senator FLETCHER. Is that the affidavit about which Mr. Glavis testified?

Mr. BRANDEIS. Yes, sir; but it was not introduced in evidence, because we did not have it at that time.

Senator FLETCHER. You mean the affidavit that Mr. Jones made?

Mr. BRANDEIS. Yes, sir. Is this the affidavit to which you referred, Mr. Jones?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. There is one dated September 8, 1909.

Mr. JONES. September 8; yes, sir.

Mr. BRANDEIS. I would like to offer that in evidence.

The CHAIRMAN. You offer it in evidence?

Mr. BRANDEIS. Yes, sir; I was going to have it marked and then offer it in evidence.

The CHAIRMAN. If there is no objection to the admission of that affidavit, it will be admitted. There being none, it is so ordered.

(The affidavit, marked "T. L. J., No. 1," is as follows:)

We, Horace Tillard Jones and L. R. Glavis, special agents of the General Land Office, hereby certify that on or about the evening of June 26, 1909, Mr. D. A. McKenzie, whose post-office address is 305 Colman Building, Seattle, Wash., appeared in our office in the Federal Building, Seattle, for the purpose of making a statement in regard to his knowledge of the Alaska coal cases, in which he was very much interested. His testimony was taken by a temporary stenographer of this office, and during his statement he said: "Now, this is confidential and I don't want it to go down in the affidavit." He then said in substance that when he was in Washington endeavoring to get legislation by Congress to enable the Alaska coal claimants to secure title to their lands that he on several occasions conferred with Mr. James R. Garfield, then Secretary of the Interior; that Mr. Garfield appeared to be hostile to the other Alaska coal cases; that during one of these conferences Mr. Garfield stated that all these coal cases were fraudulent and asked him about his own claim; that Mr. Garfield's demeanor toward these Alaska cases was such that they brought pressure to bear on Senators and Representatives to prevent his remaining in the Cabinet. Mr. McKenzie also stated that Mr. Garfield's attitude toward the Alaska coal cases was the real reason for his not being in Mr. Taft's Cabinet; that the Alaska coal claimants wanted somebody as Secretary of the Interior who recognized the needs of Alaska.

It was our intention after this statement was made to immediately make affidavit to this effect, but owing to the large amount of work and the fact that Mr. Jones a few days later returned to Portland this statement was not made until now. However, it is very fresh in our minds, for the reason that we both thought of it a number of times, because it impressed us very much, as we commented at the time that if the Alaska coal claimants had sufficient influence to remove a Cabinet officer, that we would be removed from office whenever they desired, if our reports did not suit.

On the following Monday, which was June 28, Mr. McKenzie called to see us with S. W. Eccles, of the Guggenheim syndicate, who was on his way to Alaska to investigate the properties owned by the Guggenheims. Before bringing Mr. Eccles, Mr. McKenzie stated that he was very anxious for him to learn that we would soon have our reports submitted and asked that Mr. Eccles be informed as to the progress we were making. During the interview Mr. Eccles stated that the railroad to the Alaska coal fields would cost them about \$2,500,000; that they were prepared to build this railroad, but would not do so until the Government passed on the titles to the coal lands; that unless the claims were patented that they would not build the railroad, and that this coal was very necessary for the operation of their Copper River Railroad and the proposed smelter. Mr. Glavis stated to Mr. Eccles that he was then preparing reports to the General Land Office, but of course, could not inform him as to the nature of his recommendations.

Mr. McKenzie stated that they were particularly anxious to know when the matter would be submitted to the commissioner, since he had assurances from the department that these cases would be given immediate attention.

Signed this 8th day of September, 1909, at Seattle, Wash.

HORACE TILLARD JONES,
Special Agent, G. L. O.
L. R. GLAVIS,
Chief of Field Division.

Mr. BRANDEIS. Mr. Jones, this affidavit, which has been introduced in evidence, appears to be a carbon copy. How many copies of that affidavit were signed by you?

Mr. JONES. Three or four.

Mr. BRANDEIS. Was anything said as to what disposition should be made of those different copies that were executed?

Mr. JONES. I retained one copy myself and Mr. Glavis, I supposed, retained a copy, and I understood one copy was to be sent to the President, to go with his other report.

Mr. BRANDEIS. That is the report he had made in August on the general situation?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. What connection, if any, did you have with the Alaska coal cases after that date?

Mr. JONES. In September or October I was told by my then chief, Mr. Andrew Christensen, that I would be called upon to assist Mr. Sheridan in the trial of the Cunningham coal cases, and subsequently I was so called upon, and I went with Mr. Sheridan from the time the cases started, on November 18, 1909, until we finished at Spokane in December, 1909.

The CHAIRMAN. Those were the depositions before the commissioner?

Mr. JONES. Yes, sir.

The CHAIRMAN. They were not ex parte affidavits?

Mr. JONES. No, sir.

Mr. BRANDEIS. The putting in of the evidence?

Mr. JONES. The putting of the evidence; yes, sir.

Mr. BRANDEIS. Now, you were there assisting Mr. Sheridan, the counsel selected to conduct those cases?

Mr. JONES. Ostensibly; yes, sir.

Mr. MADISON. What do you mean by that—ostensibly?

Mr. JONES. I mean that I was there to assist, but was not permitted to assist very much.

Mr. MADISON. Why not?

Mr. JONES. Because he handled the whole matter himself, and would not take the advice of Mr. Pugh or anybody else. He just handled the whole thing himself. He said he expected to get out and practice law as soon as that was over, and he thought it would be a good advertisement. I offered him suggestions about the cases at different times when the witnesses were on the stand as to matters that I knew of my own personal knowledge, and asked him to press them closer on cross-examination, but he would not do that. He said we could rebut that.

Mr. MADISON. Does that mean that he offered the original ex parte affidavits as original testimony, the same as if they were depositions?

Mr. JONES. Yes. He put the whole thing down and said we make out a prima facie case, and he puts out the Cunningham journal and the original affidavits and shows the other side the whole case—the Government's case—and the other side said: "We would like to take a little time to look over these and see what we are going to object to;" and they had a recess to take, two or three hours, to paw over all the affidavits and frame up the defense, and when the affidavits were presented to them by their attorneys they were asked: "Did you sign

this?" They said: "Yes; I signed that, but I did not mean what I said; I meant something else."

Mr. MADISON. Those are the affidavits you men had collected; you were, in fact, in the secret service.

Mr. JONES. Yes, sir.

Mr. MADISON. They were for the confidential information of the attorneys for the Government in trying the case?

Mr. JONES. Yes, sir.

Mr. MADISON. And you mean to say that he simply laid down the Government's whole case there in writing?

Mr. JONES. Yes, sir.

Mr. MADISON. Right at the beginning of this matter and turned it all over to the other parties?

Mr. JONES. It gave them the opportunity to look over all the affidavits and fix them up.

Mr. MADISON. Those affidavits that had been collected were largely for the purpose of assisting you in cross-examining. That is true, is it not?

Mr. JONES. Yes.

Mr. GRAHAM. To what extent did those who made the affidavits afterward modify or qualify them on the witness stand?

Mr. JONES. They modified them to such an extent that the affidavits were worthless. They stated that they were not speaking of what their intention was at the time that they took up the coal lands, which was the gist of the whole matter, but they were speaking of this agreement with the Guggenheim corporation after the final certificate had issued.

Mr. GRAHAM. Before the offer of those affidavits and documents in evidence did you tell him that that would probably happen?

Mr. JONES. No; but I told Mr. Pugh, who was supposed to advise with Mr. Sheridan, that I thought that was a very poor way to try a case, and he said that he had agreed with Mr. Sheridan that that would be all right.

Mr. MADISON. Who was Mr. Pugh?

Mr. JONES. Mr. Pugh was head of the board of law review here in the General Land Office, and he was sent out to assist Mr. Sheridan with the cases.

Mr. OLMSTED. Mr. Jones, let me ask you a question for my own understanding. You say that these affidavits were for the purpose of cross-examining the witnesses?

Mr. JONES. The affidavits were taken in their original, and the original purpose was in order to find out what these parties had done. The hearing was based upon the facts stated in the affidavits.

Mr. OLMSTED. But you stated a while ago that you thought they ought to be held back for use in examining the witnesses.

Mr. JONES. Yes, sir.

Mr. OLMSTED. Who would put those witnesses on the stand? Would not the Government first have to make out its case?

Mr. JONES. Yes; but the Government could make out its case.

Mr. OLMSTED. How?

Mr. JONES. With the Cunningham journal and the other documents that were got in the matter. The Cunningham journal, itself, if that was put in evidence, first, they would have to rebut it, rather prove it was false or that there was something—but would have to ex-

plain it in some way, and in order to do that they would have to put these respective witnesses on the stand as their own witnesses.

Mr. OLMSTED. I may have misunderstood Mr. Glavis, but my recollection is that he said these affidavits were used in the first instance, put in evidence to make out a prima facie case.

Mr. GRAHAM. You misunderstood him.

Mr. MADISON. He said just the contrary.

Senator PURCELL. He said his understanding was that they would not make out a prima facie case; it was not competent.

Mr. OLMSTED. I want to get an understanding between the two witnesses as to what he and the Government did.

Mr. MADISON. I think in some instances it might be used as original testimony.

Senator ROOT. Can there be any question that they would be competent as the admissions of the parties?

Mr. MADISON. They would be admissions against interest in cases where they clearly cover points involved. It would be a very serious question as to whether or not that would be the best policy.

Senator FLETCHER. Where did Mr. Sheridan live, Mr. Jones?

Mr. JONES. Prior to taking up these cases?

Senator FLETCHER. Yes.

Mr. JONES. At Denver, Colo. I understood that was his headquarters.

Senator FLETCHER. Did he ever have any previous experience in the trial of cases of this kind, if you know?

Mr. JONES. I was told he tried several cases down in Colorado; I think several cases connected with the Colorado Fuel Company.

The CHAIRMAN. Coal cases?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. He was a special agent?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. What was his salary, do you know?

Mr. JONES. I think he got the same as all the special agents—twelve or fifteen hundred dollars a year.

Mr. MADISON. Who was opposed to him; who was counsel on the other side?

Mr. JONES. Mr. Hughes, a very prominent attorney in Seattle, who was mentioned for the position of federal judge for the western district of Washington, and John B. Grey, son-in-law of Senator Heyburn.

Mr. MADISON. How old a man was Mr. Hughes?

Mr. JONES. Mr. Hughes, I should say, was a man 50 years old or over.

Mr. MADISON. How long had he been in the practice?

Mr. JONES. I could not say; I have not been acquainted with him very long, but he is an old practitioner.

Mr. MADISON. What is his reputation as a lawyer?

Mr. JONES. Very good.

Mr. MADISON. Mr. Grey, you say is a son-in-law—

Mr. JONES. Of Senator Heyburn.

Mr. MADISON. Where is his home?

Mr. JONES. At Wallace, Idaho.

Mr. MADISON. How old a man is he?

Mr. JONES. I should say Mr. Grey is about 33.

Mr. MADISON. What is his reputation as a lawyer?

Mr. JONES. Quite a keen lawyer.

Mr. MADISON. Has he been engaged in important litigation?

Mr. JONES. I think he represented the Washington Traction Company or the Washington Railway Company in some case that is going on now up at Cœur d'Alene, in which the Department of the Interior is seeking to vacate some lands up there.

Mr. MADISON. I mean previous to this time?

Mr. JONES. I could not say.

Senator PURCELL. Who was the United States attorney?

The CHAIRMAN. Was not Mr. Pugh associated with Mr. Sheridan?

Mr. JONES. Yes, sir.

The CHAIRMAN. Who was he?

Mr. JONES. Mr. Pugh was head of the board of law review in the General Land Office in Washington, D. C.

The CHAIRMAN. He was associated with him in the taking of this testimony?

Mr. JONES. Yes, sir; but he had a minor part, and at Spokane he became disgusted and said he was going home. He was not allowed to cross-examine the witnesses or anything of the sort. Then Sheridan allowed him to cross-examine the witnesses, and he got more out of the witnesses than Sheridan did, because Sheridan would lead them up to something—there were a number of anticlimaxes—lead them up to where he was going to get something out of them, and drop it. I asked him why he did that. I told him I knew facts he could cross-examine on, and he said, "Well, we will put that in in rebuttal."

Mr. GRAHAM. How old a man is Sheridan?

Mr. JONES. About 35, I should say.

Mr. GRAHAM. How long has he been practising law at that time?

Mr. JONES. I think he graduated from George Washington University a year or two ago.

Senator PURCELL. Who was United States attorney there, Mr. Jones?

Mr. JONES. Where was that?

Senator PURCELL. Where you were holding these hearings. At Spokane?

Mr. JONES. At Seattle, Elmer E. Todd was United States attorney, and at Spokane—I can not think of the man's name—he has recently resigned and is associated with Mr. Grey in this Washington Water Power Company case.

Mr. BRANDEIS. There is a statement in one of the letters in here, that referring from the Washington office in relation to Mr. Sheridan, that he was a competent, experienced attorney. Aside from the matter already testified to, was there anything that came to your attention bearing on the question as to whether he was a competent, experienced attorney that you recall?

Mr. JONES. Well, I think he was competent to try an ordinary land case involving the cancellation of a homestead or something like that, and he is a bright man and well educated, but he appeared to me to be inexperienced. I remember on one occasion he objected to the attorneys for the defense leading the witness on cross-examination, and on another occasion they objected to his leading the witness on direct examination, and he said: "I was not leading the witness; I

was merely attempting to indicate to him what I wanted him to answer."

Mr. GRAHAM. We have before heard of a distinction without a difference.

Mr. DENBY. Mr. Jones, which of Senator Heyburn's daughters did Mr. Pugh marry?

Mr. JONES. Grey, you mean?

Mr. DENBY. Yes.

Mr. JONES. I could not say.

Mr. DENBY. I was only asking, because I just recall that Mr. Heyburn was married five years ago, and I was wondering whether he was married prior to that time.

Mr. JONES. I was told he was a son-in-law of Senator Heyburn.

Senator FLETCHER. Mr. Jones, let me ask you, do you mean to indicate to the committee that there has not been any serious, proper prosecution of these cases before the courts up to this time?

Mr. JONES. I think the cases were prosecuted seriously, to the extent of the ability of the prosecutor.

Senator FLETCHER. Do you mean to say that any shortcoming in the matter of the prosecution of the cases has been due to ignorance and not to any purpose or intent?

Mr. JONES. I do not say that there was any purpose or intent to smooth the cases over, or anything of that sort.

Senator PURCELL. Did you indicate to the department in any way your objection?

Mr. JONES. No; it was not my province to indicate to the department. They might think I was insubordinate.

Mr. GRAHAM. What other lawyers out there had tried such cases prior to that time?

Mr. JONES. Such hearings?

Mr. GRAHAM. Yes.

Mr. JONES. I do not remember any hearing of so much importance or of such magnitude and involving such valuable lands. I can not remember any case, but that case should have been handled by the most competent attorney that the Government could have gotten, according to my way of thinking.

Mr. BRANDEIS. Was the Government employing about that time any counsel versed in law matters—in land-law matters?

Mr. JONES. Yes, sir. There was Mr. Francis J. Heney was special assistant to the Attorney-General. He was at San Francisco. Then Judge Becker—Tracey C. Becker, formerly of Buffalo, N. Y.—was special prosecuting attorney, and Payton Gordon was at Boise.

The CHAIRMAN. But was not that in reference to cases pending in court and not in the Land Office?

Mr. JONES. Yes, sir; that was in cases pending in court.

The CHAIRMAN. This was not a case pending in court; it was simply a hearing.

Mr. JONES. This was a hearing pending before a special commissioner.

The CHAIRMAN. To take testimony to submit to the Land Office?

Mr. JONES. Yes, sir.

Mr. DENBY. What is the status of this case now, Mr. Jones, this Cunningham group?

Mr. JONES. Why, the hearings have not been completed. Mr. Sheridan and Mr. Magee are on the way from Nome, where they have been taking some depositions of two witnesses who were out of the United States.

Mr. DENBY. It is still under trial?

Mr. JONES. Yes, sir.

The CHAIRMAN. Do you know the names of those witnesses?

Mr. JONES. Yes, sir; Byron C. Riblett, and Mace Campbell, A. B. Campbell, of Spokane.

Mr. MADISON. Isn't it true, Mr. Jones, that in a proceeding of this kind before the Commissioner of the Land Office that all the testimony would be taken in the form in which this testimony was taken by you gentlemen—that is, that they would not be oral hearings before the commissioner?

Mr. JONES. Yes; the depositions are taken around in different parts of the country.

Mr. MADISON. Then the whole is brought there, brought to the commissioner's office in Washington, and he reads that testimony over and renders his decision?

Mr. JONES. Or the examiner who does renders the decision.

Mr. MADISON. But, ultimately, it is the decision of the commissioner?

Mr. JONES. Yes.

Mr. MADISON. And the strength of the Government's case always depends upon the testimony in a proceeding of that kind that is gathered in the field?

Mr. JONES. Yes, sir.

Mr. MADISON. There is where the important work is done, is it not?

Mr. JONES. Yes, sir; although a great deal of harm can be done by ruling out certain evidence on the part of the Government.

Mr. MADISON. Does the commissioner in cases of that kind pass upon the competency of testimony as to its materiality; in other words, does he rule upon the admissibility of evidence—the commissioner in the field?

Mr. JONES. They are all given instructions to conduct the cases according to the rules of practice. There was one instance in which Mr. Magee ruled out a question as immaterial, incompetent, and irrelevant, and I thought it was a very important question and should have been allowed. It was a question of "What was your intention at the time you filed these coal claims, as to what you would do with them?" and I had an argument with Mr. Magee and Mr. Pugh about it afterwards.

Mr. MADISON. That is going a little further than I intended.

Senator ROOT. Who did you say ruled the question out?

Mr. JONES. Mr. Magee, the special commissioner.

Mr. GRAHAM. The one who is now in Rome?

Mr. JONES. Yes, sir.

Senator FLETCHER. Then the answer does not appear in the record?

Mr. JONES. No, sir; they ruled it out.

Senator PURCELL. Does not the record show that?

Mr. JONES. Yes, sir.

Senator PURCELL. It shows the question?

Mr. JONES. Yes, sir.

Senator PURCELL. And the objection?

Mr. JONES. Yes, sir.

Senator PURCELL. But it does not show the answer?

Mr. JONES. No, sir.

Mr. MADISON. I want to ask you this question: Under the rule of practice of the General Land Office, has a commissioner appointed to take testimony the power to pass upon the admissibility of testimony?

Mr. JONES. Yes, sir.

Mr. MADISON. And he does?

Mr. JONES. Yes, sir; he has the power of ruling as to whether or not it is material.

Mr. MADISON. And of excluding it from the evidence?

Mr. JONES. Yes, sir. I have had cases myself where the commissioner, who did not know any more law than the law allowed, has excluded testimony on the ground that it is grossly immaterial.

Senator SUTHERLAND. Let me understand you. Do you say that that is one of the rules of the Land Office?

Mr. JONES. That is one instruction from the Commissioner of the General Land Office; that the commissioner would put a stop to obviously irrelevant testimony, and these commissioners, as a rule, throughout the country do not know what testimony is relevant or irrelevant. They are not attorneys.

Senator PURCELL. What kind of commissioners are they, usually?

Mr. JONES. They are United States commissioners. It is about the same thing as a notary public, appointed by the district judges.

Senator PURCELL. Appointed by the federal judges?

Mr. JONES. Yes, sir.

Senator PURCELL. And not appointed by the Land Office?

Mr. JONES. No, sir.

Mr. MADISON. But this man Magee was a commissioner appointed by the Land Office to take this testimony, was he?

Mr. JONES. Yes, sir.

Mr. MADISON. He was a special commissioner?

Senator PURCELL. By virtue of his office?

Mr. JONES. Yes, sir.

Mr. MADISON. Was he a United States commissioner?

Mr. JONES. No, sir; he was an employee of the General Land Office.

Mr. MADISON. He was a special commissioner delegated to take this testimony?

Mr. JONES. Yes, sir.

Mr. MADISON. Now, as a matter of fact, is it not the rule of the department that these special commissioners who take the testimony have not the power to pass generally upon the question of the admissibility of testimony, but that they can only stop obviously immaterial examinations and questions that it is apparent have no real force or effect in the matter; that they can stop an examination on the ground that it is simply encumbering the record and accomplishing nothing?

Mr. JONES. Yes, sir.

Mr. MADISON. But their power in that respect only extends to cases of that kind?

Mr. JONES. Yes, sir.

Senator ROOR. It is to restrain abuses?

Mr. MADISON. That is it, exactly; it is to restrain abuses in the taking of testimony, and not generally to pass upon the competency or relevancy or materiality of questions upon which there may be some question as to whether or not they really are competent, material, or relevant?

Mr. JONES. The special commissioner, do you mean?

Mr. MADISON. Yes.

Mr. JONES. Yes, sir.

Senator ROOT. It is the same rule which governs masters in taking testimony in equity cases in the federal courts?

Mr. MADISON. Exactly; they are analogous to masters in chancery or persons appointed by courts of equity to take testimony in equity proceedings.

Mr. JONES. Yes, sir.

The CHAIRMAN. Is it not the rule, Mr. Jones, outside of the point referred to, that when objection is made to testimony the objection is entered in the record that the testimony is taken subject to the objection?

Mr. JONES. Yes, sir.

The CHAIRMAN. Is that not the rule and the practice?

Mr. JONES. Yes, sir.

The CHAIRMAN. In all cases where the testimony is admitted and the objection is noted?

Mr. JONES. That is the practice, but I was trying a case down in Canyon City, Oreg., in which the United States commissioner showed me instructions from the General Land Office that he should keep it out entirely if he thought it was immaterial.

Senator PURCELL. I understood you to say in this case that that was not done, in reply to what the chairman asked you, namely, that the question was put on the record and the objection was made and if the objection was sustained the answer was not taken down.

Mr. JONES. I told him that was the custom.

Senator PURCELL. But you say that the answer was not taken down in this case.

Mr. JONES. You mean in these Alaska cases?

Senator PURCELL. Yes.

Mr. JONES. No, sir; it was not taken in this case.

Senator PURCELL. So the record does not show what the answer was?

Mr. JONES. No, sir.

Senator PURCELL. How would you get before the commissioner on appeal, or the officer, or appealing court—how would you get before the court or officer in case an appeal was taken—error being based on the refusal to permit that evidence.

Mr. JONES. I am not justifying the action of Mr. Magee in ruling out evidence.

Senator PURCELL. I am asking you what would be the practice; how would you get the testimony before the court?

Mr. JONES. I suppose you mean—

Mr. BRANDEIS. If you will permit me, I am going to ask you, Mr. Jones, to explain to the committee exactly what this question was which was offered and which the witness was not permitted to answer?

Mr. JONES. The question was what was his intention at the time when he filed on this coal claim as to his disposition or handling of it.

and the other side objected on the ground that it did not make any difference what he had in his mind; that the only matter was what overt act was committed in pursuance of that intention.

Senator FLETCHER. Who was that witness?

Mr. JONES. I think that was John A. Finch, and it was at Spokane. It was during the latter part of the hearing at Spokane.

Senator FLETCHER. What group of claims did it refer to?

Mr. JONES. The Cunningham group of claims.

Senator FLETCHER. One minute, Mr. Brandeis. Was not this testimony taken in pursuance of stipulation of counsel on both sides?

Mr. JONES. I think so; yes, sir.

Senator FLETCHER. Do you know whether Mr. McGee was mentioned in that stipulation as the man agreed on by the parties to take the testimony?

Mr. JONES. No; I do not remember ever having seen the stipulation.

The CHAIRMAN. Senator, I think manifestly he would, because he would not have jurisdiction to travel all over the country unless he was.

Senator FLETCHER. They might have stipulated the manner of taking the testimony without mentioning the commissioner. I think it is important to have that stipulation before us, and I ask that it be put in the record.

Mr. Mc'ALL. Mr. Jones, was this particular question taken down by the commissioner, do you know?

Mr. JONES. By the stenographer?

Mr. Mc'ALL. By the stenographer.

Mr. JONES. I think it was; I could not say as to that, because I did not read over the testimony, but it was asked, and I am pretty positive that he took it down.

Mr. Mc'ALL. Should it appear in the records of the case that is now in the Land Office?

Mr. JONES. I suppose the record is in the Land Office; yes, sir.

Mr. MADISON. Was this question asked in connection with or as preliminary to the proof of overt acts, or did it simply stand alone as a question as to the intention that was formed in the mind of a man unconnected with overt acts?

Mr. JONES. You could not tell, because he was not permitted to pursue the question any further, but I presume it was a preparatory question leading up to what he did in pursuance of that intention.

Mr. MADISON. And was he cut off from stating as to what was done in pursuance of the intention; that is to say, did the examination end right there—was he not permitted to show overt acts?

Mr. JONES. No; he was asked what he did with his claim after he filed on it, but the whole thing is largely based on a man's intention, what his intentions were at the time he filed, and what he did in pursuance of his intention. If he did some act after he had made his filing or after he had made his final proof and you could prove that it was his intention at the time he filed to do that, it would invalidate the claim.

Mr. MADISON. Unquestionably so. But standing alone, simply as a question of intention, mental intent, it could not be very important, it would have to be connected with some overt act.

Mr. JONES. Oh, of course. If that question was answered merely and then dropped, it would not amount to anything; still it would be a proper question.

Senator PURCELL. Yes, it would as a preliminary question.

Mr. DENBY. Would it not be proper to lay the foundation for the overt act first before you asked the intention?

Mr. JONES. I should not say so.

Senator SUTHERLAND. I do not understand yet. The question asked was as to his intention to do what?

Mr. JONES. What he intended to do with his claim and how he intended to develop it. The question was a preliminary one, because if he had said he intended to keep it himself and develop it at his own expense, that on its face would have been ridiculous, for one man to develop 160 acres of coal, and that was a preliminary question in order to break down any statement that he might make, or get his admission as to what he intended to do.

Senator SUTHERLAND. Suppose he had stated he intended to put it in with other claims—form a combination with other people?

Mr. JONES. If he intended to consolidate with other people, that would have invalidated the claim.

Senator SUTHERLAND. His intention to do that would?

Mr. JONES. No. As I understood the question it was preliminary, and the next question would be what would you do.

Senator SUTHERLAND. After he had acquired title, would combining with other people invalidate his claims?

Mr. JONES. If he had had the intention at the time he filed on the claim—

Senator ROOT. Answer Senator Sutherland's question.

Senator SUTHERLAND. If he had actually combined with other people after acquiring a title, that would not have been unlawful?

Mr. JONES. I consider it so, yes, sir; if he had the intention—you mean if he had the intention at the time he filed?

Senator SUTHERLAND. No, that is not my question now. Suppose an individual locates a coal claim and acquires absolute title to it; then, do you mean to say it is unlawful for him after acquiring the title to combine with other owners of coal claims?

Mr. JONES. No, sir; I do not.

Senator SUTHERLAND. It is not?

Mr. JONES. No, sir.

Senator SUTHERLAND. Then, is a secret intention in the mind of a locator, with no steps taken, before he acquires title, to carry it out, a mere secret intention to combine with others afterwards, is that unlawful?

Mr. JONES. If you can show his secret intention at the time he filed and show other acts that have been done by him all along, prior to acquiring title, in pursuance of that intention, and then after he acquires title, he then comes out in the open and takes an action in the matter and combines it, I should think that would be sufficient to cancel the claim.

Senator SUTHERLAND. Only as reflecting light upon the understanding between the parties before the title is obtained?

Mr. JONES. Yes, sir.

Senator ROOT. Was your difference with Mr. Sheridan and Mr. Pugh about the way of conducting the case based on the views of the law which you now express here?

Mr. JONES. Yes, sir.

Mr. DENBY. Did I understand you a moment ago to say that if a witness under these circumstances testified that he had no intent to combine, but intended to work his 160 acres alone, it would be manifestly absurd, because he could not do it.

Mr. JONES. Yes, sir; because we have statements——

Mr. DENBY. I am just trying to get at the facts. What would be the purpose of anybody to file on a coal claim if he could not have the intent to combine with somebody else, and if he could not work his claim alone, what would be his purpose in filing the claim?

Mr. JONES. That is what I have always wondered myself.

Mr. McCALL. Would not that be simply this, that the law as you understood it, was ridiculous?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. I would like to have you state a little more fully what you meant in answering Senator Root's question; whether the differences of opinion between you and Mr. Sheridan and Mr. Pugh as to the way in which these claims should be conducted were based upon your view of the law, as stated—the only differences you had between them in relation to this one question which came up before Commissioner McGee and which he ruled out?

Mr. JONES. No. I had on several different occasions told Mr. Sheridan that I had an intimate knowledge of the attitude of these respective affiants at the time they made their affidavits as to what they were talking about, because I knew what I had asked them about, and to use as an illustration the case of Fred H. Mason of Spokane. I went to Mr. Mason's place of business and talked with him about these coal claims, and he conversed with me very freely, because I told him that Judge Ballinger stated that if the laws were in such a condition that a man could not combine these claims to a certain extent, he was going to see what legislation could do for them before Congress; and that opened their mouths. They were very free to talk about the cases then. And I went back to my room at the hotel and wrote out his statement, so far as he had given it to me, and then I took it back to him, and he signed it. He stated he wanted to go down to see his attorney before signing it. His attorney was a man by the name of Wakefield, down in Spokane. He also wanted to talk with Mr. A. B. Campbell. So we went down. But I might say, though, in this affidavit, up to the time that we started for his attorney, he was giving what his intention was at the time he filed on the coal claim, as to combining with other claims. He said he intended at the time he filed to combine his claim with the others in the group of 33 entries, form a corporation, and issue stock.

We went down to Mr. Wakefield's office, and talked with Mr. Campbell and Mr. Wakefield, and Mr. Mason and Mr. Campbell and Mr. Wakefield went over to the other side of the room and conversed together, and then they came back and told me that one of their representatives had a deal on with the Guggenheims and that he was in the East, this representative, and that it was thought the deal would go through, whereby they would part with an interest in their claims for \$250,000. I added all of that after we went down to Mr. Campbell's office, and Mr. Mason signed the affidavit and Mr. Campbell corroborated it.

When Mr. Mason was on the stand he said: "Yes, I remember Mr. Jones coming to my office and conversing with me about the coal

claims, and then going to his room and writing it out. When he came back I complimented him on the correctness of his statement;" and that is where I asked Mr. Sheridan to ask him if it was a fact that the affidavit only extended so far before we went down to Wakefield's office, because he said: "Although I have stated an intention to combine and form a corporation, I was referring only to the Guggenheim deal, which took place after we got our final certificates."

And then other witnesses made statements that were not true, and I thought it was proper that Mr. Sheridan should cross-examine him pretty stiffly on that point and get him either to admit or deny the statement I had given Sheridan as being the truth, and then we could rebut if they denied it. "No," he said, "I could go on the stand at the close of the case and rebut all I wanted to."

Mr. BRANDEIS. Mr. Jones, you were subpoenaed some weeks ago to come here; why did not you come before?

Mr. JONES. I was assisting Mr. Francis J. Heney, in the Binger-Herrman trial.

Mr. BRANDEIS. How long were you engaged in that?

Mr. JONES. Five weeks.

Mr. OLMSTED. Have you ever had any experience as a trial lawyer yourself?

Mr. JONES. Nothing except the trial of contest cases, such as Mr. Sheridan had had before. I did not consider I was competent to try those Cunningham cases myself.

Mr. OLMSTED. You say you do or do not?

Mr. JONES. I say I do not. I would not like to have had the responsibility of them.

Mr. MADISON. What was Mr. Pugh's qualifications as a trial lawyer, if you know?

Mr. JONES. Well, I could not say, because I had not had any——

Mr. MADISON. How old a man is he?

Mr. JONES. Mr. Pugh is about 40, I think; 38 or 40 years old.

The CHAIRMAN. Did he belong to the law division in the Land Office?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Do you know what his salary is?

Mr. JONES. I think he gets \$2,000 a year.

Mr. GRAHAM. Is McKee a lawyer?

Mr. JONES. Why, I think so. Yes. He passes on contest cases and writes opinions and decisions.

Mr. GRAHAM. Has he had any experience in the practice of the law?

Mr. JONES. I couldn't say, except I know he has had considerable experience in the General Land Office in writing up decisions on contest cases. I do not know what active practice he has had.

Mr. BRANDEIS. Was there anything unusual, Mr. Jones, in having this case heard as it was, in the manner in which it was heard without passing before the register and receiver?

Mr. JONES. Why, yes. It is customary for the depositions to be taken and forwarded to the United States land office for the district in which the lands are located, and let the register and receiver pass upon them, and then they are transmitted to the General Land Office and the commissioner either affirms or reverses the decision of the register and receiver, and then they go up to the Secretary

of the Interior, and the Secretary either affirms or reverses the Commissioner of the General Land Office. But through stipulation they agreed that they should take the deposition in the United States and do away with the register and receiver passing upon them at all.

Senator ROOT. What was the name of the register and receiver?

Mr. JONES. P. M. Mullin was the receiver and John W. Dudley was the register.

The CHAIRMAN. The son of the receiver was interested in one of the Cunningham claims?

Mr. JONES. Yes, sir; Ignatius Mullin.

The CHAIRMAN. And the receiver himself had a pecuniary consideration, did he not?

Mr. JONES. The receiver's son and one or two of his daughters had coal claims, and the receiver himself had put up the money, or advanced the money, for Ignatius Mullin for the disbursements on this Cunningham coal claim.

The CHAIRMAN. Did you not consider it wise to take these cases away from them when they had that interest?

Mr. JONES. Yes, sir; I should say so.

Mr. BRANDEIS. Had you ever known of any case in all your experience in the Land Office where the hearings before the register and receiver, or before the register or receiver, was dispensed with?

Mr. JONES. No, sir. I will tell you how they do. When one of the officials has a pecuniary or other interest in the claim, they will assign a special agent or some other official to sit in his place during the hearing.

Mr. BRANDEIS. Was there any reason, so far as you know, why that general practice of substituting some other disinterested register or receiver or special agent should not have been adopted in this case?

Mr. JONES. No, sir.

Mr. BRANDEIS. We have here, Mr. Chairman, what is said to be a correct copy, which came from the Forestry Service, of the record, so far as it is made, of the testimony and the putting in of these affidavits and the rejection or admission of evidence. I would like to offer that record now for the single purpose of being referred to, so far as the members of the committee and counsel desire, as showing the degree of competency shown by the trial lawyer in the conduct of these important cases—the trial lawyer for the Government, I mean.

The CHAIRMAN. You mean the entire record?

Mr. BRANDEIS. I think the entire record should be admitted, but of course it is not necessary to print it. I offer it merely for purposes of reference and so that the members of the committee and counsel, so far as they desire, may refer to it.

The CHAIRMAN. You do not ask to have it printed as a part of the record?

Mr. BRANDEIS. Certainly not. I have only examined a small part of it myself; but at the beginning of the record you will find, starting out these affidavits—

Mr. OLMSTED. If it is a proper or necessary thing for the committee to pass on, why should it not go into the record like anything else?

Mr. BRANDEIS. There is a very large amount of it; the record is very voluminous; but I think the members of the committee might desire, in connection with the testimony of Mr. Jones, to read over

the first part of it. I have only read a very small part of it myself; I have only seen it this morning; but the committee could read over ten or fifteen pages, or perhaps even less, which will contain the action of Mr. Sheridan in introducing at the very outset, and throwing down upon the table, these affidavits of the Cunningham claimants. Then, also, at some other places the forms of questions, or in this particular question, which Commissioner McGee rejected, dealing with the intent of the party.

The CHAIRMAN. Well, now, Mr. Brandeis, this, according to your statement, is only for the purpose of showing that this man Sheridan was incompetent?

Mr. BRANDEIS. For so great a case.

The CHAIRMAN. For a case of that kind. That is your only purpose?

Mr. BRANDEIS. That is the only purpose now. There are one or two passages I may want to introduce for another purpose, but I will select those and introduce them separately.

Senator ROOT. Mr. Chairman, I think this whole record ought to be accepted and printed. If it is worth the while of six Senators and six Members of the House to sit here day after day and week after week, taking testimony, it is worth our while to print that record which contains real evidence regarding the subject we are investigating. Indeed, it is hardly fair to counsel, who is trying the case for the Government, to pass upon its competency without having the record. I move that the record be accepted and printed.

Mr. BRANDEIS. I would like to state, if I may, that the evidence I have attempted to bring out is not in any way a criticism of Mr. Sheridan. He is not to be criticised for the fact that he was put into this case a year, a year and a half, or two years after he passed out of the law school and had so slight an experience. It is rather as reflecting upon his superiors, who had, for a case of this magnitude, selected an attorney, however bright or brilliant he may be, who had so slight an experience.

Mr. OLMSTED. We have no evidence as to the amount of experience he has had, and I do not know whether counsel ought to testify on that point.

Mr. BRANDEIS. I beg your pardon, Mr. Olmsted. This witness has testified, and I accept his statement as a fact.

Mr. OLMSTED. In listening to Mr. Glavis I thought he thought very highly of Mr. Sheridan.

Mr. BRANDEIS. Yes; as to his intent. And this witness does also. I was very anxious that there should not go into the record anything like a charge against Mr. Sheridan, anything other than inexperience.

Senator ROOT. You have clearly made a charge, and a very injurious one; nothing could be more injurious than the charge you have made against him, and I think it is but fair that the entire record of the case that has been tried should be presented.

Mr. BRANDEIS. I should be very glad indeed to have it in.

Mr. GRAHAM. Do you claim that you have already shown that the department knew of Sheridan's inexperience, and have you any further evidence along that line?

Mr. BRANDEIS. We expect to show that the department knew, must have known, and if they did not know certainly were guilty of very gross negligence and neglect, if they did not know the extent of Mr. Sheridan's experience; and the charge is against the department in having put on this important case a man of such slight experience.

The CHAIRMAN. Mr. Jones, I want to ask you a few questions. You say that Mr. Sheridan had been trying some coal cases in Colorado?

Mr. JONES. Yes, sir.

The CHAIRMAN. Were those cases tried in court or before a commissioner?

Mr. JONES. The hearings were before a commissioner, as I understand it.

The CHAIRMAN. Had he been successful in those cases?

Mr. JONES. That I could not say.

The CHAIRMAN. You do not know anything about that?

Mr. JONES. No, sir. All I know about it is what he told me himself about the cases that he had tried.

The CHAIRMAN. Now, you think that Sheridan was incompetent, or was he corrupt in this manner in taking this testimony?

Mr. JONES. I think he was unwise in the method in which he tried the cases. I do not charge him with being corrupt, and I think he is very bright and competent. All I intended to say was that I do not think he adopted the proper method in the trial of these cases. It is a matter of opinion, and I suppose attorneys will differ anywhere on the method of trying a case.

Senator FLETCHER. Do you mean to say that he lacked experience, too?

Mr. JONES. I said that I thought his methods, his manner in addressing a witness and method of examining and everything taken together, would lead me to believe that he was not a man of a great deal of experience.

Mr. GRAHAM. Do you know whether Sheridan had knowledge of the vast amount of property involved in the hearings?

Mr. JONES. Yes; he did.

The CHAIRMAN. Mr. Vertrees, have you anything to say on this point?

Mr. VERTREES. I was only going to make this suggestion, that I hope the suggestion or the motion of Senator Root to print this report would be sustained. You will recall that this is the case that the original records were sent down and were now sealed up in the vault and were sent back by your direction. Inquiry has developed that there are two office copies, one which Mr. Sheridan has with him, where they are taking evidence now in Paris, and one which counsel for the defendants has. This copy which we now have has been sent here under the directions of this committee from the Land Office.

The CHAIRMAN. No; from the Agricultural Department, with the signature of Secretary Wilson.

Mr. VERTREES. We presume it must be a correct one. I have no doubt it is, and I sincerely trust that it will be put in such shape that it can be examined by everyone.

Mr. BRANDEIS. We will be very glad to have it go into the record.

The CHAIRMAN. The committee has heard Mr. Root's motion that this whole report be admitted and printed.

Mr. MADISON. I make the suggestion that it be printed as a separate volume, or as an appendix.

The CHAIRMAN. But that it be printed as a part of the case?

Mr. MADISON. Yes; but as a separate volume or as an appendix.

(The motion as amended was agreed to.)

The CHAIRMAN. This record you have offered in evidence will be admitted and printed as a separate document. Now, go ahead.

Mr. DENBY. Mr. Jones, is Mr. Sheridan still on the Cunningham cases?

Mr. JONES. Yes, sir.

Mr. DENBY. And in full charge of them?

Mr. JONES. Yes, sir.

Mr. DENBY. I want to ask if any of the Alaska coal filings of any group have gone to final patent yet that you know of?

Mr. JONES. I understand that patents are written up in some of them, but whether or not the claimants have received them or not I could not say.

Mr. DENBY. Title has not yet passed out of the Government into any private claimants?

Mr. JONES. Not to my knowledge.

Mr. MADISON. In your reference to patents being written up, you mean the writing up of the patents after the Love report was acted upon?

Mr. JONES. Yes, sir.

Mr. MADISON. There has been no recent writing of patents?

Mr. JONES. Not that I know of.

Mr. MADISON. And you have no intimation as to that?

Mr. JONES. I could not say on that.

Mr. MADISON. You referred merely to that old writing up of the patents years ago on the Love report?

Mr. JONES. Yes, sir.

Senator FLETCHER. Mr. Jones, I want to ask you a question. I understood you to criticise the order of the department in having these cases, in directing these cases to be heard by special commissioner, instead of being heard by the register and receiver in the usual way?

Mr. JONES. I do not think I criticised it. I merely answered the questions that Mr. Brandeis asked me.

Senator FLETCHER. Do you criticise it?

Mr. JONES. Well, I do not presume to criticise.

Senator FLETCHER. Do you see any way in which the interests of the Government would suffer by adopting that method in preference to the usual method; and, if so, state where and how.

Mr. JONES. Well, only in this way: A register and receiver is instructed to use what personal knowledge he has of the facts in any case in writing up a decision on it or in passing upon the validity of any proof, and if the register and receiver at Juneau, Alaska, had some intimate knowledge of the facts in this case which did not come out at the hearing, I should think that would influence them in writing their decision.

Senator FLETCHER. Do you see any other way in which the Government might have suffered or might suffer?

Mr. JONES. I can not think of any just now.

Senator FLETCHER. You can not think of any other way? Now, I understood you to say that the register and receiver at Juneau were disqualified because of the interest—

The CHAIRMAN. The receiver was disqualified owing to interests of his son in these claims.

Senator FLETCHER. Well, the receiver was disqualified.

Mr. GRAHAM. And the register also. He had prepared papers—
The CHAIRMAN. Both of them were disqualified.

Mr. JONES. How was the register disqualified, may I ask?

Mr. VERTREES. The Cunningham journal showed that he had been paid \$250 for preparing papers for the Cunningham group.

Mr. JONES. I do not think that matter had come to the knowledge of the commissioner at that time, though.

Mr. VERTREES. It was filed in May, 1908.

Mr. JONES. Well, I understand when the matter was presented to the commissioner with the request to have Mr. Dudley dismissed from office, that he objected to it because it would raise a row with Dudley's father.

Senator SUTHERLAND. Assuming, for the sake of the question, that the register and receiver were disqualified in the manner suggested, then it would necessitate the calling in of another register and receiver or the sending of a special agent there?

Mr. JONES. Yes, sir.

Senator SUTHERLAND. And they would have no personal knowledge, any more than the special commissioner who actually was appointed?

Mr. JONES. No, sir.

Senator SUTHERLAND. So that if these men were disqualified, then the reason that you have given for the Government being prejudiced would not apply?

Mr. JONES. Did I give any reason?

Senator SUTHERLAND. Yes; you stated that the register or receiver would put in his report what he knew about the matter personally.

Mr. JONES. Yes.

Senator SUTHERLAND. Or what they knew about the matter personally.

Mr. JONES. Oh, yes. I do not think that I stated at any time that the Government was prejudiced by the action in removing it from the register and receiver. I said it was unusual, but I did not say it would prejudice the case at all.

Senator SUTHERLAND. Do you think it was prejudiced in any way?

Mr. JONES. I do not think so.

Senator SUTHERLAND. By that action?

Mr. JONES. No; because I do not know anything about it.

Senator SUTHERLAND. Do you think there was any improper purpose on the part of anybody in having that done?

Mr. JONES. No; I do not think anything about it one way or the other, because I do not know what their intention was.

The CHAIRMAN. Now, Mr. Jones, is it not a fact that in all contested cases, where there is a contest or a controversy, that they would never stop with the decision of the register and receiver, but the case is always taken up to the commissioner?

Mr. JONES. That is my understanding of the routine work.

The CHAIRMAN. So that practically in this case, this case on account of its importance would inevitably have come up to the commissioner for decision, would it not?

Mr. JONES. I should think so.

The CHAIRMAN. And the only advantage you could get by trying it before the register and receiver would be to get their opinion in the

first instance, but a case of this kind would ultimately be passed upon by the commissioner and finally by the Secretary— isn't that true?

Mr. JONES. Yes, sir.

The CHAIRMAN. So that there could not have been any harm done in this case on that account— isn't that true?

Mr. JONES. Not that I can see.

Mr. GRAHAM. Would it not be harm if the record of the evidence which went to the commissioner excluded material evidence which ought to have developed, as in the case you have cited?

Mr. JONES. Yes; that might happen before the special commissioner.

The CHAIRMAN. That was not a case pertaining to the decision of the register and receiver.

Mr. BRANDEIS. You stated, Mr. Jones, in answer to Senator Sutherland's question that you did not know what the intention was or the reason why. Don't you know that it was said that the reason why they omitted the hearing before the register and receiver was to save time and expense?

Mr. JONES. Well, I don't remember ever having heard that, but that would be a very reasonable conclusion. I do not remember ever having heard that, but that is the only object I could see; it would save a lot of time and expense.

Mr. BRANDEIS. Would it not save the same amount of time and expense in every case?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. And you say you have not known of any other case where it was done?

Mr. JONES. No, sir.

Mr. OLMSTED. Have you ever known of any other case where the register and receiver were disqualified by reason of interest?

Mr. JONES. Yes, sir.

Mr. OLMSTED. What was done in those cases?

Mr. JONES. A special agent was sent up by the Land Office to take the place, to sit in the hearing and render the decision in place of the register and receiver.

Mr. OLMSTED. Were they in Alaska?

Mr. JONES. No; I was assigned to one case in Seattle, and other agents have been assigned to different places in Oregon.

Mr. OLMSTED. Does it take a more competent person to present evidence to the commissioner than to act as commissioner himself?

Mr. JONES. I beg your pardon.

Mr. OLMSTED. In these hearings before the commissioner, or the register and receiver, does it take a more competent person to present the evidence than it does to pass upon it as receiver, or register, or commissioner?

Mr. JONES. Well, that is a matter of opinion.

Mr. OLMSTED. Well, I am asking you for your opinion?

Mr. JONES. I should say that the man who passes upon the materiality of the evidence should be more conversant with the law than the man who presents it, but not necessarily so. The man who is presenting it may know a great deal more than the person who passes upon it.

Mr. OLMSTED. You said you yourself have sat as commissioner to hear the testimony in some of these cases?

Mr. JONES. I have known of agents sitting—it is merely a formal matter—I have known of agents who have been in the service not a year, and who have had little or no experience, sitting in cases of this sort.

Mr. OLMSTED. Well, was there anything unusual in sending Mr. Sheridan? What was his position under the Government at the time he presented the evidence in these cases?

Mr. JONES. He was special agent for the General Land Office.

Mr. OLMSTED. It is customary to have the evidence presented by a special agent?

Mr. JONES. Yes, sir.

Mr. OLMSTED. Mr. Sheridan had been sent there to take the place of Mr. Glavis, or else Mr. Glavis would have presented it?

Mr. JONES. Yes, sir.

Mr. OLMSTED. Has Mr. Glavis had any more experience in the law than Mr. Sheridan?

Mr. JONES. I think so. I do not think he is a lawyer, but I think he knows more law than Mr. Sheridan.

Mr. OLMSTED. Is he a lawyer at all?

Mr. JONES. He has not been admitted to the bar, as I understand it, but has had very considerable experience in coal cases particularly. He assisted Mr. Hoyt in the preparation of the Portland Coal and Coke Company cases before Judge Hanford.

Mr. OLMSTED. I merely wanted to get at it, if there is anything unusual in sending a special agent to present this testimony.

Mr. JONES. It is rather unusual to send a special agent from another division entirely to try cases that another agent has worked up, unless there is something against the agent who worked the cases up.

The CHAIRMAN. Mr. Jones, did you not feel that this was a reflection on you to send Sheridan up there to sort of supplant you in taking these cases?

Mr. JONES. No, sir; I did not, because I was merely an assistant to Mr. Glavis. And I was working in the Oregon division. I had nothing to do with these coal cases except as assistant to Mr. Glavis.

Mr. OLMSTED. Did you feel that it was a reflection upon Mr. Glavis?

Mr. JONES. Why, yes; I did.

Mr. OLMSTED. Did he feel so?

Mr. JONES. I presume so; I could not say what he thought.

Senator ROOT. I understand that Mr. Glavis is not a lawyer?

Mr. JONES. No, sir.

Senator ROOT. Is there any distinction made about that in such cases—is it customary for cases to be presented by those who are not lawyers?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Mr. Jones, you were asked by Mr. Olmsted whether Mr. Glavis would not have presented this evidence if Mr. Sheridan had not been called there. Don't you know that Mr. Glavis had asked the General Land Office for the assistance of counsel in the putting in of evidence when these cases were to go to a hearing?

Mr. JONES. No, sir; I do not know anything about it.

Senator ROOT. Mr. Jones, I notice in that letter written by Mr. Dennett to Mr. Schwartz, dated July 22, 1909, and appearing on page 257 of the list of documents, that Mr. Dennett says:

Sheridan is a first-class man, and probably has had more experience in trying coal cases than anyone in the service.

What do you know about that?

Mr. JONES. What do I know of the letter itself or the——

Senator ROOT. About Sheridan's experience in trying coal cases?

Mr. JONES. Why, all I know about it is what he has told me himself about his cases down in Colorado.

Senator ROOT. You had no personal knowledge of Mr. Sheridan's experience?

Mr. JONES. I had never heard of him during my six years in the land service until he was sent up to Seattle.

Mr. BRANDEIS. I think, Mr. Chairman, that that is all I have to ask this witness at the present time.

The CHAIRMAN. You may proceed, Mr. Vertrees.

Mr. VERTREES. Mr. Jones, I understand you to have stated that a hearing by the register and receiver was eliminated, and it was understood that the case was to be prepared to go to the commissioner in the first instance.

Mr. JONES. Yes, sir.

Mr. VERTREES. This special commissioner appointed to take this evidence, or, as you have phrased it, to conduct these hearings, was who?

Mr. JONES. Mr. William J. Magee.

Mr. VERTREES. Was he not to conduct—that is, to conduct the hearings in the same manner as the register and receiver conducted them?

Mr. JONES. He conducted the hearings under section 183, I think, of the Revised Statutes, which provides for an inquiry of a clerk or official in the General Land Office.

Mr. VERTREES. I am after the manner in which he conducted it; it was according to these same rules and regulations, was it not?

Mr. JONES. It was according to the rules and practice of the General Land Office.

Mr. VERTREES. That is according to the same rules and regulations that the register and receiver would have conducted it?

Mr. JONES. Yes, sir.

Mr. VERTREES. I will ask you if rule 41 does not expressly provide as follows—and I mean by rule 41 the rules of practice, "Rules of practice in cases before the United States district land offices, the General Land Office, and the Department of the Interior," as they are found in the revised edition approved July 15, 1901. I ask you if that rule does not provide as follows:

Rule 41. No testimony will be excluded from the record by the register and receiver on the ground of any objection thereto; but when objection is made to testimony offered the exceptions will be noted, and the testimony, with the exceptions, will come up with the case for the consideration of the commissioner. Officers taking testimony will, however, summarily put a stop to obviously irrelevant questioning.

Mr. JONES. Yes, sir.

Mr. VERTREES. I will ask you if rule 56 does not provide as follows:

The accumulation of excessive cost under rule 54 will not be permitted; but when the officers taking testimony shall rule that a course of examination is irrelevant and checks the same under rule 41, he may, nevertheless, allow the same to proceed at the sole cost of the party making such examination. This rule will apply also to cross-examination in contests covered by the provisions of rule 55.

Mr. JONES. Yes, sir.

Mr. VERTREES. That is the rule?

Mr. JONES. Yes, sir.

Mr. VERTREES. And those rules governed. Now, who was this clerk who was being examined when you say there was a question put which was objected to and the commissioner would not permit the question to go in?

Mr. JONES. It was one of the witnesses at Spokane.

Mr. VERTREES. It was Mr. Finch, was it not?

Mr. JONES. I think it was, but I am not positive.

Mr. VERTREES. I understood you to say that it was Mr. Finch.

Mr. JONES. I said I thought it was Mr. Finch or some other witness who was examined at Spokane.

Mr. VERTREES. I will ask you if this was not the question that was asked Mr. Finch to which you referred:

Was it not therefore your idea that the coal from your claim would have to be operated through a tunnel from some other claim?

Mr. GRAY. I object to what Mr. Finch's idea was. I object to the question as incompetent and irrelevant what Mr. Finch's idea was. It is not material or relevant in this hearing.

Mr. JONES. No, sir; it was the plain question, "What was your intention with reference to this coal claim when you filed there?"

Mr. VERTREES. That was the question, was it?

Mr. JONES. That was the question. I do not remember whose testimony it was in.

Mr. VERTREES. I thought you said it was in Mr. Finch's?

Mr. JONES. No; I did not. I did not confine myself to Mr. Finch, and I think if the record is read it will show that I stated that in that way.

The CHAIRMAN. You have just stated that you thought it was Mr. Finch.

Mr. JONES. I said I thought it was Mr. Finch or some other witness at Spokane, but I did not confine myself to Mr. Finch.

Mr. VERTREES. Who were the witnesses examined at Spokane?

Mr. JONES. Oh, there were eight or ten of them.

Mr. VERTREES. Can you name them?

Mr. JONES. If you will give me the opportunity after recess, or at some other time, I think I can find exactly the passage for you.

Mr. VERTREES. We will give you that opportunity, but at the present time, I would like, if it is not Mr. Finch, to tell us what witness it was.

Mr. JONES. I can not say.

Mr. VERTREES. But you are not positive it was not Mr. Finch?

Mr. JONES. I am not positive that it was not Mr. Finch, but I am positive that it was not that passage you have read.

Mr. VERTREES. Now, Mr. Jones, you have spoken about this matter of expense and time. The register and receiver were at Juneau, were they not?

Mr. JONES. Yes, sir.

Mr. VERTREES. In Alaska?

Mr. JONES. Yes, sir.

Mr. VERTREES. And all of the witnesses, or nearly all of them, were citizens of the United States and not citizens of Alaska?

Mr. JONES. All were of the United States with the exception of Ignatius Mullen, and I think he was around in Alaska some place.

Mr. VERTREES. One. Would it not have been a matter of extraordinary expense, unusual and not to be found in other cases, to have carried so many witnesses as those from the United States to Alaska?

Mr. JONES. They could not have done it, because the law does not provide for taking witnesses outside of the country in which they are to testify.

Mr. VERTREES. I mean under the stipulations providing that they might take their depositions.

Mr. JONES. At the United States land office?

Mr. VERTREES. Yes.

Mr. JONES. Yes, sir; that would have been a rather peculiar thing to do.

Mr. VERTREES. Then, if I understand, you wish to say to the committee that you do not impugn the motives or integrity or bona fides of any person in the department eliminating the register and receiver and in providing for a hearing directly before the commissioner?

Mr. JONES. I stated that I did not know anything about that—the motives—in any way.

Mr. VERTREES. But you have come here and related this fact and said that there was something peculiar about it—I think you used that expression.

Mr. JONES. I do not think I did. I said unusual.

Mr. VERTREES. What inference do you wish to be drawn from the fact that it was unusual—an unfavorable inference?

Mr. JONES. I am not wishing any inference to be drawn from my testimony. I am merely stating what I am asked to state.

Mr. VERTREES. Do you wish it to be understood that your testimony in any wise reflects upon the integrity or good faith or the official conduct—

Mr. BRANDEIS. I object to that question. If there is any argument—

The CHAIRMAN. The objection is overruled. We decide to admit all testimony here.

Mr. BRANDEIS. Do I understand that all testimony is to be admitted?

The CHAIRMAN. Yes. We do not apply the rules of evidence here. You set the example in your examination.

Mr. BRANDEIS. I beg your pardon, Mr. Chairman; I do not think there was any evidence that I introduced that was not relevant.

The CHAIRMAN. Proceed, Mr. Vertrees.

Mr. VERTREES. Do you wish it to be understood that your testimony in any wise reflects upon the integrity or good faith or the official conduct of any public official in the Department of the Interior

by reason of the fact that the hearings were directed to be heard directly before the commissioner instead of before the register and receiver?

Mr. JONES. I did not make any such charge; no, sir. I am not making any charge at all.

Mr. VERTREES. I was not on the point of charge; I am going to go back to that, but let us not have any words of that sort. What I want to know is do you wish an unfavorable inference to be drawn, regardless of whether you have formulated any charge or not?

Mr. JONES. It is immaterial to me what inference is drawn. I am merely stating what I know, and I do not care what inference is drawn from it.

Mr. VERTREES. Do you draw any yourself?

Mr. JONES. No, sir.

Mr. VERTREES. Your attention was called by one member of the committee to a letter of Mr. Dennett, the commissioner, with respect to Mr. Sheridan. I want also to call your attention to another statement of his which appears in the letter of July 20, 1909.

The CHAIRMAN. Please state what book and what page that appears on.

Mr. VERTREES. It is on page 278 of the list. It is a letter from Mr. Dennett to Mr. Schwartz, in which he says:

It is my present impression that Sheridan, who impresses me very favorably as an able, aggressive lawyer, with a good head, should be placed in charge of all the hearings at a later date.

Do you know anything about that?

Mr. JONES. No, sir.

Mr. VERTREES. Who did Mr. Sheridan have there to assist him in the matter?

Mr. JONES. He had Judge Pugh—Mr. W. R. Pugh, of the board of law review of the General Land Office.

Mr. VERTREES. You have called him "judge." Was he not a judge at one time in the State of Kentucky?

Mr. JONES. I think he was a justice of the peace.

Mr. VERTREES. Do you call a justice of the peace judge?

Mr. JONES. It is a kind of honorary title, I suppose.

Mr. VERTREES. You say you think. Do you mean that you believe that, or do you know?

Mr. JONES. I think he was a justice of the peace, but I am not positive.

Mr. VERTREES. Do you wish to say that you regard him as an incompetent person?

Mr. JONES. No, sir; I did not make any such statement.

Mr. VERTREES. Did he not practice law in the State of Kentucky before he was appointed to this place?

Mr. JONES. Yes, sir; I understood that he practiced law thirteen years in the State of Kentucky.

Mr. VERTREES. What age man was he?

Mr. JONES. I should say he was about 40 years of age.

Mr. VERTREES. What board did you say he was on?

Mr. JONES. On the board of law review, which passes on contest cases.

Mr. VERTREES. Who else did he have to assist him? He had you, did he not?

Mr. JONES. He had me to advise him about the facts.

Mr. VERTREES. And you advised him with reference to the law. some, did you?

Mr. JONES. I tried to; yes, sir.

Mr. VERTREES. You tried to? You say that Mr. Pugh at one time became offended because he was not permitted to cross-examine some witness.

Mr. JONES. Not at one time, but all through the trial he was chafing at the inaction—sitting around and listening while Mr. Sheridan was conducting this case, and he said he thought it was a waste of good government money and time for him to sit around there and he was going to leave us at Spokane and go home.

Mr. VERTREES. He complained to Mr. Sheridan about that and—

Mr. JONES. I do not know whether he complained to Sheridan, but he told me about it.

Mr. VERTREES. It came to Sheridan's ears and he put him to work?

Mr. JONES. I can not say what came to Sheridan's ears. I was not there.

Mr. VERTREES. At any rate, this was the situation of all this jealousy, and Mr. Pugh's disappointment, and it came about that Mr. Pugh was put to work?

Mr. JONES. Yes, sir.

Mr. VERTREES. And from that time things went along harmoniously?

Mr. JONES. Yes, sir; they all went along harmoniously to a certain extent, but at different stages of the investigation Mr. Sheridan and Mr. Pugh and Mr. Magee did not speak. Sheridan felt that Magee was rather unjust in sustaining some of the objections of the counsel for the defense, and Magee thought that Sheridan was a little too bumptious and was trying to run things with a high hand there, and run him too, and Pugh thought he was not being given enough to do.

The CHAIRMAN. And what did you think?

Mr. JONES. I thought I would like to get out of it as quickly as possible.

Mr. VERTREES. If I have understood you correctly, from your statement Mr. Sheridan had the idea that he was going to conduct this case to a successful termination, make a great reputation out of it, and retire and go to practicing law?

Mr. JONES. Yes, sir.

Mr. VERTREES. And therefore he was going to corral all the greatness for himself and not let you fellows have anything to do with it?

Mr. JONES. That is what I understood.

Mr. VERTREES. And you all wanted to share in that?

Mr. JONES. No, sir; I never asked him to allow me to conduct the examination of the witnesses. All I did was to inform him of the fact, but he was what I conceived to be too polite and apologetic to the witnesses.

Mr. VERTREES. And he saw fit to be polite to the witnesses and to reject your suggestion?

Mr. JONES. Yes, sir.

Mr. VERTREES. With the result that you thought he was not a very good man to conduct the examination?

Mr. JONES. No, sir; I did not think so, and there are others who did not think so. If you will call on Mr. Magee and Mr. Pugh they will say the same thing.

Mr. VERTREES. And others thought so, too, from what you have said? Now, after all, you have not meant to impugn here the good faith of Mr. Sheridan or his honesty of purpose, have you?

Mr. JONES. No, sir; I think he had an honest purpose.

Mr. VERTREES. You think he was doing the best he could to win the cases?

Mr. JONES. I think he did the best he could as far as he could see it.

Mr. VERTREES. And you think Mr. Pugh was doing his best with the light before him.

Mr. JONES. Yes, sir.

Mr. VERTREES. And you were doing the best you could with the light before you?

Mr. JONES. I did not have anything to do with it.

Mr. VERTREES. Was that the trouble, that they would not let you have—

Mr. JONES. I do not know that there was any trouble. I was not anxious to be connected with the cases under the circumstances anyhow.

Mr. VERTREES. But you were connected with them?

Mr. JONES. I was ordered by my chief to go up there and go around with them, and he himself said he did not think it was necessary for me to follow them around from place to place, and he spoke to Mr. Sheridan about it, and he insisted that as I had a knowledge of these affidavits and had taken a number of them it was necessary that I should be present whenever there was any testimony to be taken.

The CHAIRMAN. He evidently had a better opinion of you than you had of him.

Mr. BRANDEIS. Who was the chief?

Mr. JONES. Mr. Christiansen.

Mr. VERTREES. He was the successor of Mr. Glavis, was he?

Mr. JONES. Yes, sir.

Mr. VERTREES. Up to the time he became the successor Mr. Glavis was aiding and assisting all he could, was he not, in the prosecution of the hearing?

Mr. JONES. He had charge of the investigation.

Mr. VERTREES. Well, investigation.

Mr. JONES. Mr. Glavis was removed just as soon as Mr. Sheridan took charge.

Mr. VERTREES. That was about the 16th or 18th of September, was it not?

Mr. JONES. I think so.

Mr. VERTREES. You have mentioned the fact that you and Mr. Glavis made affidavit as to what Mr. McKenzie had said at the time he was giving the affidavit.

Mr. JONES. Yes, sir.

Mr. VERTREES. Now, your affidavit was made September 8, 1909, was it not?

Mr. JONES. The joint affidavit of Mr. Glavis and myself was made at that date; yes, sir.

Mr. VERTREES. Now, in point of fact, was not Mr. McKenzie's affidavit on June 26, 1909?

Mr. JONES. I think so.

Mr. VERTREES. More than two months before you got together and made your affidavit about what he said casually at that time!

Mr. JONES. Yes, sir.

Mr. VERTREES. Now, do you not know that Mr. Glavis had been notified on July 1 that a man would be sent out in the near future to take charge of his place?

Mr. JONES. Yes, sir.

Mr. VERTREES. And it had been done, had it not? The man had come that you expected would?

Mr. JONES. No, sir; I did not see him. I left Seattle on the 29th or 30th of June.

Mr. VERTREES. But at the time you and Mr. Glavis made the affidavit you understood that that was the thing that was going to be!

Mr. JONES. I made the affidavit in September, do you mean?

Mr. VERTREES. Yes, sir; September 8.

Mr. JONES. Oh, yes, sir.

Mr. VERTREES. You knew that was the situation?

Mr. JONES. Yes, sir.

The CHAIRMAN. Mr. Vertrees, will your examination continue much longer? If it does, we will take a recess now.

Mr. VERTREES. I would like to ask just a few more questions. I prefer that we adjourn rather than to be cut short. I will not be much longer in my examination.

The CHAIRMAN. Can you do it in fifteen minutes?

Mr. VERTREES. Yes, sir.

The CHAIRMAN. Very well; you may proceed.

Mr. VERTREES. I wish, in this connection, Mr. Jones, to have you file the affidavit of Mr. McKenzie that was given on the 26th of June, at the time you spoke of, together with his statement filed with President Roosevelt and the one mentioned in the affidavit, as part of your deposition.

The CHAIRMAN. Do you offer that in evidence?

Mr. VERTREES. Yes, sir.

The CHAIRMAN. Is there any objection?

Mr. BRANDEIS. Pardon me. I did not catch your offer.

Mr. VERTREES. It is the affidavit of Mr. McKenzie and also his statement that is referred to in the affidavit and statement filed with the President.

Mr. BRANDEIS. I have not seen it.

Mr. VERTREES. It is on file with the committee.

The CHAIRMAN. It is one of the papers that was sent up here.

Mr. BRANDEIS. I have not seen it and did not know that it was here.

The CHAIRMAN. It will be admitted.

Senator FLETCHER. I doubt whether a statement by Mr. McKenzie, an ex parte statement like a letter, ought to be received.

Mr. GRAHAM. Will Mr. McKenzie be before the committee?

The CHAIRMAN. I do not know.

Mr. VERTREES. It is the affidavit taken by Mr. Jones to which he referred.

Senator FLETCHER. I have no objection to the affidavit, but he said accompanying the affidavit there was a statement.

Mr. VERTREES. It is a statement that is referred to in the affidavit; the statement previously made to the President.

Mr. BRANDEIS. I did not know that there was any statement.

Mr. JONES. You are referring to that statement that Mr. Glavis and I made.

Mr. VERTREES. It is the statement of President Roosevelt about the Alaska coal situation.

Mr. DENBY. Who made it?

Mr. VERTREES. Mr. McKenzie.

Mr. DENBY. To President Roosevelt?

Mr. VERTREES. Yes, sir; and is referred to in this affidavit.

Mr. DENBY. Prior to the making of this affidavit?

Mr. VERTREES. Yes, sir.

The CHAIRMAN. It is referred to in McKenzie's affidavit.

Mr. BRANDEIS. I could not understand just what this paper was that Mr. Vertrees has offered—what affidavit it is, and what statement it is.

Mr. VERTREES. It is an affidavit—

Mr. BRANDEIS. What is the date of the affidavit, please.

Mr. VERTREES. June 28, 1909.

Mr. OLMSTED. Who made it?

Mr. VERTREES. McKenzie.

Mr. BRANDEIS. The original?

Mr. OLMSTED. Is that the one made before Mr. Glavis and Mr. Jones and about which Mr. Jones has just been testifying?

Mr. GRAHAM. Yes, he so stated; but in connection with it there is an unsworn statement of some sort which he says ought to go in with it, and which it seems to me ought not to go in.

Mr. VERTREES. It is made good by the reference in the affidavit, which is sworn to.

Mr. GRAHAM. Well, if it is covered by the affidavit of what use is it to offer the statement, and if it is not covered by the affidavit it should not go in.

Mr. VERTREES. Just as explanatory. Well, I will pass from this.

Senator ROOT. Do not pass from it until it is settled as to whether it is evidence or not. We do not want to have any future trouble with regard to it.

Senator FLETCHER. It might be submitted to the committee for decision.

The CHAIRMAN. Yes. We will now take a recess until 2 o'clock, and in the meantime Mr. Brandeis can examine the paper.

(At 12.45 p. m. the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled after recess at 2 o'clock p. m.

The CHAIRMAN. Mr. Vertrees are you ready to proceed?

Mr. VERTREES. Yes, sir.

HORACE TILLARD JONES RESUMED THE STAND FOR FURTHER EXAMINATION.

Senator SUTHERLAND. Before we begin, I want to ask Mr. Jones a question. Mr. Jones, you stated this morning that J. P. Gray, one of the counsel for the Alaska coal claimants, I understood you to say, was the son-in-law of Senator Heyburn.

Mr. JONES. That is my understanding.

Senator SUTHERLAND. Where did you get that understanding?

Mr. JONES. That is what they said around Spokane.

Senator SUTHERLAND. Generally speaking, you mean?

Mr. JONES. Yes; among the parties I was with up there. That was the general impression of the government officials around Spokane, with whom I was associated at the time.

Senator SUTHERLAND. You did not make any inquiry to ascertain whether or not Senator Heyburn had a son-in-law at all?

Mr. JONES. No; I did not think it was very important.

Senator SUTHERLAND. Why did you state it here then?

Mr. JONES. I stated it because I believed it to be true, but I don't think it makes any particular difference.

Senator SUTHERLAND. It only makes this difference, I think. This witness ought not to come here and repeat idle gossip of that kind. The fact about it is, Senator Heyburn has no son-in-law, and Mr. Gray is not related to him in any way, shape, or form; he has no daughter even. He was married only about seven years ago. I think this ought to be stated and put into the record in connection with this witness's testimony.

Mr. JONES. I was only stating the general impression around that part of the country. He was formerly associated with Senator Heyburn as a law partner.

Senator SUTHERLAND. Senator Heyburn informed me to-day, and I have no doubt of the truth of it, that he is not in any way related to Mr. Gray and that Mr. Gray never has been his law partner.

Mr. JONES. I was mistaken as to the facts, then. It was the general impression at Spokane, Coeur d'Alene, Wallace, and other places around that part of the country.

The CHAIRMAN. Mr. Vertrees, proceed.

Mr. VERTREES. When we adjourned we were on the question of the affidavit. You have stated that in September, 1909, you and Mr. Glavis made affidavit to the effect that when Mr. McKenzie had made affidavit he had also stated that it was because of Secretary Garfield's hostility to the Alaska coal cases that he didn't have a place in the cabinet?

Mr. JONES. Yes, sir.

Mr. VERTREES. Isn't this a correct statement of the matter: That Mr. McKenzie had stated that he had first come on to Washington in reference to these matters and that when he first came Mr. Garfield was hostile to Alaska claimants and was not favorable to additional legislation with respect to Alaska coal claims, but subsequently he came to a different conclusion and recommended a bill with reference to it?

Mr. JONES. Why, the correct statement, as I recollect it, is contained in that statement that Mr. Glavis and I made in September, 1909, September 8, 1909.

Mr. VERTREES. I want, in this connection, to ask you if you recognize this as a copy of the affidavit. This is a photographic copy of the affidavit made by Mr. McKenzie at the time you say he made the statement he made.

Mr. JONES. Yes, sir.

Mr. VERTREES. Just following that is a typewritten copy of the affidavit which is more easily read. I wish you would read that affidavit to the committee.

Mr. BRANDEIS. That is the affidavit of June 29, 1907?

Mr. VERTREES. June 26, I think it is. Now, when you get to the place there where it calls for the reference to the photographic one go back and read the interlineations also—or the erasures, also.

Mr. JONES (reading):

STATE OF WASHINGTON, *County of King, ss.*

D. A. McKenzie, a citizen of the United States, of lawful age, whose residence and post-office address is 305 Colman Building, Seattle, Wash., being duly sworn, hereby on oath deposes:

I was sent up into Alaska by some New York and Pennsylvania people to make reconnaissance of that country for the purpose of determining upon the practicability of building a railroad up the Copper River Valley.

At the same time I was instructed by the said parties to make an examination into the Behring River coal fields and see if it would pay to put a railroad into that country; that is, to see if there was sufficient coal to warrant the expenditure of the money necessary to put a road in there.

While making these examinations I met one Charles Doughten, a locator of coal claims in Alaska, who showed me around that part of the country and explained to me that he had located a number of Spokane people on coal claims in that vicinity. I told him that I had some parties who had money to invest in Alaska. He said that his parties wanted to sell their claims and that when he had seen them he would give me the first chance to buy the claims if I wanted to do so. Sometime afterwards I met him on a steamer between Alaska and Seattle and he came to Seattle with me. He then stated that his people would all sell out. That there were no wealthy people among those he located and that they would sell their claims for one thousand dollars apiece.

The understanding was that I was to get my purchasers together and as fast as I would get a man to take a claim I would pay Doughten \$1,000 and his party would relinquish his claim, or assign it to my party, and my party would then take it up under the coal-land laws.

I located several people in this way and although I can not remember the names of all of them you can identify the group by the fact that J. H. McGraw is one of the owners or stockholders.

When we started into the thing we expected to take these claims singly—each individual buy his own claim and then after we got patents it was the understanding—although there was never any contract or anything of that sort—but it was understood that we would put the claims together and form a company for the handling of the said claims. Since that time we have had the land surveyed, and I believe the survey has been approved by the land office. At the present time we are getting ready to advertise our claim in accordance with the regulations of the land office.

After having this talk with Doughten, when my friends and I were going into this deal, I explained to them that we could not make a contract or form a corporation or company to take these lands as a whole, but that each individual would have to prove upon his claims separately, and then after we had obtained patent we would then be privileged to do as we pleased about forming a company. There was, however, no distinct agreement of any kind that we should form a company. Of course, naturally, I took it that their interests would make them want to do that thing, as a single claim would be of little or no value to any person, so it really wasn't necessary, even if we had been permitted to do so under the law, to ask for an agreement of that sort.

Then along about this time there was a ruling by the department that parties taking coal claims in Alaska could not combine and work them together even after patent, and I then stopped getting my friends to take the claims in that way. We then went to work for the present law passed, whereby a man could consolidate sixteen coal claims into one company or corporation, and we got Doughten's friends, who had taken these claims in the first instance, to make deeds to our company formed under new law for the lands. I did not want to take these people who had first located the claims into the company because I did not know any of them and did not know to what extent they could be depended upon to carry out the purposes of our company with the said claims.

I didn't get very many claims from Doughten at first, until after the law allowing the consolidation of claims was passed, when he felt free to go ahead with the proposition.

I was back in Washington, D. C., a good deal during the time that the people interested in Alaska coal lands were trying to get the new bill through Congress, and I had

a number of talks with Mr. Garfield, Secretary of the Interior, and with Mr. Woodruff, the Assistant Attorney-General of the Interior Department, and Mr. Fred Dennett, and other government officials. I explained matters pretty fully to them all. Mr. Garfield was at first disposed to be very drastic in his treatment of the Alaska interests, and he asked me if all of those coal claims up there were not fraudulent. I remember one of the first things he said when I first went to see him was: "How about your own claims, Mr. McKenzie; are they taken according to law?" Mr. Woodruff, however, after I had talked with him about the new law, said—

Mr. VERTREES. Now, going back to the photographic copy, that, I should say is erased, what we wish to read; there is a line drawn through it in the photographic copy, but it does not make sense without reading it:

Mr. JONES (reading from photographic copy):

You could go up there in Alaska and buy sixteen claims and sell, or you can form a corporation if you want to, and you can own 90 per cent of the stock, or as much as you can pay for.

I might say here, that the erasure or line, was drawn through there at the request of Mr. McKenzie prior to his signing the affidavit [continuing reading from affidavit]:

I also went to see President Roosevelt, before this new law allowing the consolidation of sixteen claims was passed and explained matters to him fully. I told him that the laws were not formed so that we could open up the coal fields in Alaska. I made a full report in writing to him about the matter and he read the same over very carefully, wherein I described conditions there very fully. I told him that under the rules and regulations of the land office there was a great difference of opinion between the ideas of the locators and the land office and under the rules there was undoubtedly a great many of the claims that had been overlooked or neglected; that is, so far as the compliance with the said rules and regulations of the land office were concerned, but that none of the locators so far as I knew had any intention to defraud the Government; that is, they were not trying to get coal lands by locating them as homesteads, or anything of that sort. I told him that I knew a great number of the locators were all right. I stated substantially the same facts with relation to the coal situation in Alaska to the Committee on Public Lands in the House and also in the Senate, but after hearing all these statements made by myself, the present law was recommended and passed under the direction of the Secretary of the Interior, Mr. Garfield. I told Mr. Garfield that after we got out patents to our lands we intended to unite the all claims in one body, form a corporation and mine our coal for the joint benefit of each other. I also made the same statement to Mr. Fred Dennett, namely, that we intended to form a company and mine the claims jointly for the benefit, equally of all the claimants, after securing patent. Mr. John H. McGraw was there also, and Mr. Wesley Jones, now Senator Jones, and Congressman Humphrey. They happened in when I was talking about it.

The claims that were bought from Doughten by my people and deeded to the respective companies are as follows:

Hunter, Noon Day, Ptarmigan, California, Plymouth, Maryland, Hawkeye, Marion, Tom Thumb, Bunker, Mary Ann, Opler, Walter, Lillie May, Georgia.

The above claims belong to the McKenzie Anthracite Coal Company.

Blue Jay, Snow Shoe, Puritan, Robinson, Spokane, Trade Dollar, Heckler, Sullivan, Good Luck, Ideal, B. & B., King, Humming Bird, Minnie, Jumbo.

The above claims belong to the Carbon Mountain Anthracite Coal Co.

[SEAL.]

D. A. MCKENZIE.

Subscribed and sworn to before me at Seattle, Wash., at room 219, Federal Building, this 28th day of June, 1909.

HORACE TILLARD JONES,
Special Agent, G. L. O.

L. R. GLAVIS.

Mr. VERTREES. Now, please read the statement to which that affidavit refers, which was submitted to the President, which follows that.

Mr. JONES (reading):

STATEMENT REGARDING ALASKA COAL LEGISLATION.

Long before any attempt was made by Congress to extend the coal-land laws to the District of Alaska a number of Alaskans went into what is now known as the Bering coal fields, near Controller Bay, and prospected for coal and oil and found some splendid deposits of coal. They began to form companies and each member located a coal claim in this district. They went to work in good faith to open up and develop the coal, and when this field was first brought to the attention of the United States Government they had so advanced their operations that they were able to show the representatives of the Geological Survey many veins they had exposed, and in this way the Government received the benefits of their efforts and expenditures. Other persons followed their entrance into the coal fields, and the land was soon largely taken up in the same manner by small associations the members of which would locate contiguous tracts. This is a very expensive country to operate in. The cost of getting provisions and tools from the salt water into the interior is almost prohibitive. It required large sums to carry on the development work, and in order to raise this corporations were formed and stock sold. Most of the stock was taken by Alaskans and people of the Pacific coast.

By the act of June 6, 1900, Congress attempted to extend the coal-land laws to Alaska and passed an act for that purpose, but the act failed to provide for a survey, and the law was of no force or effect, as none of the lands in Alaska had been surveyed. In 1904 another act was passed by Congress, which provided for making a survey at the expense of the locator. All the parties holding claims there then relocated them under the new law. But under the rules and regulations of the Land Office they were not allowed to form companies or corporations before receiving patents, and at the present time they are held up on account of this technical violation. There has been no evidence of fraud discovered, or attempted fraud of any kind. The lands were entered as coal lands, and the highest price that the Government received for public land will be paid for it. There is no instance where any person has attempted to take up coal land as a homestead or with scrip or in any other manner than under the coal-land law. Everything has been open and aboveboard. It may be that the locators were somewhat careless in not ascertaining the provisions of the new rules and regulations, but it has been the custom of Alaskans, and I believe throughout the West generally, to feel that when a person found anything of value on the public domain he could take possession of it, knowing that his rights would be recognized. There is even more excuse for an Alaskan to make such a mistake, as the country has been for a long time practically without any law. The people had been a law unto themselves, and had made rules and regulations to govern their mining operations. The idea has grown up and developed that they had a right to do this, and that the United States would never interfere. In view of all this we feel that it would be a simple act of justice for Congress to allow us to secure patents for this land, and so revise the law as to make it operative to permit us to open up this coal field, so that the people of the Pacific coast, and our navy, can purchase American coal of as high a grade and for less money than they are now paying for Welsh coal, which is about equal in heat-producing qualities.

The law is framed at present to permit every individual who cares to enter coal land to take 160 acres in a single body. One tract of 160 acres in Alaska is practically worthless, owing to the topography of the country. The land is rough and mountainous, and in order to work coal claims profitably several claims of this size must be worked together. It has been estimated that it will cost all the way from two to five hundred thousand dollars to properly open up and work a coal mine on an economical basis. To justify such an expenditure each location should contain from six to eight sections. To illustrate the impracticability of operating a single claim of 160 acres in this country let us say that A has a claim on the creek level where he can obtain an outlet to salt water. B has a claim farther up the mountain, and C, D, and E are still farther up. B, C, D, and E are compelled to come over the property of A, so that their claims are absolutely worthless unless they can cooperate with A. The chances are that one tunnel, which may be a very expensive proposition, will develop all five claims. It would be a difficult matter to enact a law that would fit all cases and prescribe the exact amount that should be embraced in a mining property. As to other coal lands in Alaska, not yet located, we do not care to make any suggestions, but we do feel that locations already made should be protected by appropriate legislation. We went into the coal fields and located this land in good faith. We were invited there by the laws and customs of the country, and we feel that it is incumbent

on the Government to deal fairly with the pioneers and keep faith with us. There have been some technical violations of the rules and regulations of the land department by many of these claimants, but we trust the Government will take into consideration the difficulties under which they labored and also remember that the miners of the North are many miles from Washington, and few of them are versed in the law. We think such legislation should be passed as will permit us to open up these coal claims and have our product on the market for the American fleet now in the Pacific during the year 1908.

Railroads are very timid about investing capital to build into this coal field until this all-important question of title is settled by Congress. There is plenty of railroad capital to build into this section and several lines have already been projected, but it is doubtful if anything more is done by them except to hold their positions until this matter is adjusted.

"DEAR MR. BALLINGER: Will you please give me your views in full on this matter?"
"T. ROOSEVELT."

"FEBRUARY 12, 1908."

NOTE.—Secretary Ballinger states that in accordance with the directions of President Roosevelt he read this statement and advised the President as to his views. These views were substantially the same as appear in his annual report as Commissioner of the General Land Office for 1907 and in his statements before the House Committee on the Public Lands in connection with the Cale bill, and that the President encouraged him in following out the suggested plan of opening of Alaska coal deposits.

Mr. MADISON. Who is that statement signed by?

Mr. JONES. It is apparently not signed at all.

Mr. MADISON. Who is it presumed to have been made by?

Mr. JONES. I don't know.

Mr. VERTREES. The affidavit has just stated it is a statement to go to the President, and the indorsement there by the President shows that it must be the same statement.

Mr. MADISON. I wanted to know that was the claim. I inferred that was true, but want to make it certain in my mind.

Mr. VERTREES. We can produce the original if you desire.

Mr. MADISON. I do not think that is necessary; if you say it is so I shall believe that it is so.

Mr. VERTREES. It has already been filed with the committee.

The CHAIRMAN. You offer that in evidence?

Mr. VERTREES. Yes, sir; I had it read for that purpose.

The CHAIRMAN. All right; it is admitted in evidence.

Mr. GRAHAM. What is its status now? Mr. Chairman, this is the statement about which we were talking before adjournment, is it not?

The CHAIRMAN. Yes, sir; it is part of that affidavit.

Mr. GRAHAM. I don't understand that it is. It is not sworn to.

Mr. JONES. That last statement that I read?

Mr. GRAHAM. Yes.

Mr. JONES. No, sir.

Mr. GRAHAM. I take it to be an argument, and it can only come before the committee as an argument and no more.

The CHAIRMAN. Of course, all of this evidence is taken before the committee for what it is worth. There is no end of evidence before the committee that would not be admitted in any court, but we will have to judge of that.

Mr. VERTREES. I understand that it is now before the committee in evidence.

The CHAIRMAN. Yes, sir.

Mr. VERTREES. Now, Mr. Jones, since reading it, do you not know that that statement was made prior to the passage of the act, the act we know as the act of 1908, under which claimants holding claims

to an aggregate amount of 2,560 acres could combine after the initiation of entry?

Mr. JONES. Since reading that affidavit presumed to be made by Mr. McKenzie?

Mr. VERTREES. Yes.

Mr. JONES. I don't know when it was made; no, sir. But from the language I should judge it was made prior to that time, but I could not say.

Mr. VERTREES. Does not the affidavit you have read there, and which was made by Mr. McKenzie, show that Mr. Garfield was active and that it was under his direction that this act of 1908 was passed?

Mr. JONES. Yes, sir. The act in its changes was passed with the consent of Mr. Garfield, but it was his hostility, as I understood Mr. McKenzie, it was his hostility toward these Alaska coal claims in the first instance that led to his being removed from the Cabinet or requested to resign.

Mr. VERTREES. What I want your mind on now is, what is there now to indicate a recognition of any hostility at that time in the mind of Mr. Garfield, at the time that act was passed?

Mr. JONES. I don't think I am testifying as to what Mr. Garfield's attitude was, I am merely stating what Mr. McKenzie told me. Mr. McKenzie might have told an utter falsehood, for all I know.

Mr. VERTREES. I am after Mr. Garfield's attitude now, and ask you if it was not friendly?

Mr. JONES. I don't know. I never saw Mr. Garfield.

Mr. VERTREES. Don't you know that Mr. Garfield appeared before the committee, or rather sent in a communication, to the Committee on Public Lands on the 20th of April, 1908, recommending that the Alaska laws be modified so as to enable these combinations to be made?

Mr. JONES. No, sir; I don't know anything about it.

Mr. VERTREES. You don't know that?

Mr. JONES. No, sir.

Mr. VERTREES. You know what Mr. McKenzie said in the affidavit?

Mr. JONES. Yes, sir.

Mr. VERTREES. That Mr. Garfield had done such a thing and that that act was passed under his direction.

Mr. JONES. Yes, sir; I know what Mr. McKenzie said, but that does not necessarily follow I know what Mr. Garfield did.

Mr. VERTREES. I understand that. I am on this point, that I want you to show to the committee that there was this man making the affidavit which he made, and which on its face showed that the attitude of Mr. Garfield was not unfriendly or unfavorable at all, as he viewed it—whether it was or not—that his conception of it at that time was that it was not unfavorable, nor at the time the act was passed, although previously it had been—isn't that true, that that affidavit shows that?

Mr. JONES. The affidavit is in evidence for itself; I don't like to pass on that.

Mr. VERTREES. You don't like to pass on that. But it did happen that you and Mr. Glavis got together more than two months after that and made an affidavit as to the statement by Mr. McKenzie at variance with that which was revealed by the affidavit that he made on the 26th of June.

Mr. JONES. Why, yes, sir. I went over and saw Mr. Glavis in Seattle in September, 1909, and we were talking over the different matters. He showed me his report that he had made to the President, and I reminded him of this conversation, and both of us recollected it very clearly, because it is not very pleasant to consider that unless you do what the influential men of the country want you to do you are going to lose your position, and the matter did not go out of my mind very quickly; I remembered it.

The CHAIRMAN. Mr. Jones, that affidavit that you and Mr. Glavis made there on the 8th of September, the pith of that was that Mr. McKenzie intimated that Garfield would not be appointed Secretary of the Interior because he was not sound on the coal-land question?

Mr. JONES. My understanding of his statement was that Mr. Garfield had been released from his position in the Cabinet—he was at the time Secretary of the Interior—because of his hostility.

The CHAIRMAN. To the coal-land law?

Mr. JONES. To the coal lands in Alaska; yes, sir.

The CHAIRMAN. That did not bear on the question—coal-land question. Didn't it go to show that the President was a bad fellow in not reappointing Mr. Garfield? Was that the object you and Glavis had in view, to show that the President and Garfield were mixed up in this coal-land question and that he would not reappoint Garfield because Garfield was not sound on the coal-land question?

Mr. JONES. Not at all.

The CHAIRMAN. What did you make it for?

Mr. JONES. My impression was that some of the President's advisers had gotten around to him and told him: "Here, this man Garfield don't suit us very well; he is too drastic in his opinion as to what should be done with the public lands of the United States. We want a man from the West who understands the conditions there better than he does."

The CHAIRMAN. You thought these men had corrupted the President to that extent?

Mr. JONES. Not necessarily. I do not necessarily believe—I did not say that—

The CHAIRMAN. You were after the President—

Mr. JONES. Pardon me; I have not answered that question. I did not say I believed absolutely what Mr. McKenzie said. It may have been all bombast on his part, in trying to make us see what a big man he was.

The CHAIRMAN. But you thought it was of enough seriousness to make an affidavit about it, you and Glavis?

Mr. JONES. We understood it was to be sent to the President, so that if it had reflected on him we sent it to the right place.

The CHAIRMAN. Did not you understand it was a reflection on the President if what Mr. McKenzie said was true?

Mr. JONES. No; because I do not understand that the President is responsible for everything that goes wrong because of any advice he might receive from his advisers.

The CHAIRMAN. No; but in not reappointing Mr. Garfield or retaining him as Secretary of the Interior?

Mr. JONES. No, sir; I do not. I did not consider it a reflection on him at all.

The CHAIRMAN. Go ahead, Mr. Vertrees.

Mr. VERTREES. You had not read, as I understand you, the report, or rather the letter, of Mr. Garfield of April 20, 1908, to the chairman of the Committee on Public Lands, in which he recommended legislation looking to the consolidation of coal claims in Alaska, the amending of the law so that it could be done?

Mr. JONES. I do not recollect having read it. I read a good many—

Mr. VERTREES. You do remember, do you not, that Mr. McKenzie, in his affidavit which you took in June, 1909, said that that very act of 1908 had been passed under the direction of Mr. Garfield?

Mr. JONES. I recollect that.

Mr. VERTREES. You recollect that?

Mr. JONES. Yes, sir.

Mr. VERTREES. Is it not true that the memorandum in which Mr. McKenzie states the Alaska situation to the President bears an indorsement which shows that he referred it to Mr. Ballinger for his opinion?

Mr. JONES. Yes, sir.

Mr. VERTREES. Have you not stated that you had had conversations with Mr. Ballinger in the summer of 1908?

Mr. JONES. No, sir; it was 1907.

Mr. VERTREES. Nineteen hundred and seven, I should say, in which he talked over the situation in Alaska and was of the opinion that relief was needed there?

Mr. JONES. Yes, sir. Mr. Ballinger stated that he did not consider that it was a just thing that parties who had put in so much money there developing these claims, and where stock had been sold, probably to innocent purchasers, etc., that they should lose their title, and that if there was any way of passing laws so that these people could get these coal claims he believed in doing it. I told him it would work a hardship on some people but that I did not believe in having laws that were not enforced. The laws were to the effect that a man could not combine and sell stock in something he did not own or had no title to.

Mr. VERTREES. I believe you have already stated to the committee that it was perfectly ridiculous, according to your notion, for one man to think of working a 160-acre claim in Alaska.

Mr. JONES. Yes, sir; it is.

Mr. VERTREES. That is your view of it from an examination?

Mr. JONES. I think every one will concede that the laws were ridiculous.

Mr. VERTREES. These laws were in force at that time?

Mr. JONES. Yes, sir.

Mr. VERTREES. So that you practically concurred in his view of what the law ought to be?

Mr. JONES. Yes, sir.

Mr. VERTREES. But your position was that the laws ought to be enforced even if they were ridiculous?

Mr. JONES. My view was that what had been done in the past should be punished.

Mr. VERTREES. That action was made by a combination of men to meet what you say was a ridiculous and impossible condition?

Mr. JONES. That action was a combination of men to violate the rules and regulations and the statutes, and to flood the market with stocks based on prospective title to some public land of the United States.

Mr. VERTREES. That is a different question from what I asked you, Mr. Jones. I wanted to know if it was not your judgment and opinion at the same time that you say it was the judgment of Mr. Ballinger, those laws, as they stood, were ridiculous and that relief was needed.

Mr. JONES. Yes, sir. I think they ought to pass a law giving the Federal Government supervision over those lands up there so that no combination or interest could get possession of them. I think the coal of Alaska should be for the benefit of the whole United States, and that no combination should be allowed to get possession of it and contract to put the prices up to any extent they choose.

Mr. VERTREES. Still you want it increased beyond 160 acres?

Mr. JONES. No, I don't. Judge Ballinger never submitted any plan to me.

Mr. VERTREES. I don't mean that you were to pass on the legislation. You have given your judgment pretty freely here on matters and things, and the way men conduct lawsuits, and whether they were proper or not, and whether that is a good law or bad law, and I want your judgment on laws relative to coal lands in Alaska. I understood you to say as they stood you regarded them as perfectly ridiculous and absurd.

Mr. JONES. Yes, I do. I gave you my judgment as to the remedial laws that would be necessary.

Mr. VERTREES. My next question, valuing your judgment as I do in these matters, what amount do you think would be a good aggregate?

Mr. JONES. I do not think that any amount would be a good aggregate for combination purposes. I was very much disappointed when I heard that this law had been passed allowing them to consolidate.

Mr. VERTREES. Let's leave out the combination purposes and your disappointment. You say they can not work 160 acres. Just how many do you think could reasonably, properly, and fairly be worked from your knowledge of Alaska conditions?

Mr. JONES. You want to get my views as to what should be done?

Mr. VERTREES. Yes; your views.

Mr. JONES. All right; I will be glad to give them to you. I think the Government should retain title to those coal claims and lease them out on royalty.

Mr. VERTREES. What acreage is what I am after?

Mr. JONES. Because, under the circumstances, there is no possible way to keep them from combining.

Mr. VERTREES. Let's pass from the sale system and the leasing system. We will get back to that presently. What I want to know is, whether you lease or whether you sell, what would be a law that would not be absurd and ridiculous? You said the 160-acre is absurd. What I mean is, whether you lease or sell, what amount would you say was proper under those conditions?

Mr. JONES. As I told you before, I do not think any law that would permit individuals and combinations to take up claims there would be satisfactory to the people of the United States.

Mr. VERTREES. That is it, is it?

Mr. JONES. Yes, sir.

Mr. MADISON. Let me ask you this question: Do you think the law was ridiculous and absurd because it provided the passing of title to private ownership, or ridiculous and absurd because it did not give to the claimants enough land?

Mr. JONES. Well——

Mr. MADISON. Do you understand my question?

Mr. JONES. Yes; I understand what you mean.

Mr. MADISON. I want to know why you think the law asburd and ridiculous.

Mr. JONES. I think the law was ridiculous and absurd for these reasons: There are very few men in this country that could take up, whether it be 160 acres or 1,060 acres, who could afford, individually, and without getting somebody else interested in the land, to go in and open it up and develop it. A man has got to combine with somebody else to work 160 acres in order to get good results and work the thing on a business basis. I do not see how any law could be passed that would make it any less ridiculous for any one individual to take it up and say he was going to combine with anyone else.

The CHAIRMAN. Would not that same thing apply to a lease of 160 acres, as well as to a sale of it? Could a lessee who could only get 160 acres, only lease 160 acres, be in a better condition to operate it if that was all he had?

Mr. JONES. If the proper laws were passed and the Federal Government had supervision over those things——

The CHAIRMAN. You do not understand me. I mean could a man work a 160-acre claim under a lease to better advantage than if he bought it?

Mr. JONES. I guess not; no, sir. I do not think I suggested that they lease them in 160-acre form.

Mr. OLMSTED. You have been in Alaska personally and have seen some of this land, have you not?

Mr. JONES. No, sir; I have only been as far as Juneau. I am not a coal expert and have not been on the field myself.

Mr. OLMSTED. I want to find out just where the Cunningham claims are located.

Mr. JONES. They are north of Katalla.

Mr. OLMSTED. That is about 20 miles from the coast?

Mr. JONES. It is 28 miles.

Mr. OLMSTED. Up in the mountains?

Mr. JONES. Yes, sir.

Mr. OLMSTED. Do you know how many months in the year a man could have operated there if there were a mine in operation?

Mr. JONES. Do you mean how many months they can work around there?

Mr. OLMSTED. Yes.

Mr. JONES. I am not positive; I would not like to state; the seasons are short, but I would not like to confine myself to any number of months, because I do not know.

Mr. OLMSTED. They could not work more than half a year?

Mr. JONES. No, sir; I am positive they could not work more than half a year, if that much.

Mr. OLMSTED. You have said, as I understand you, that 160 acres would not pay anybody to attempt a coal operation if they had only 160 acres. What is the smallest acreage that you think an individual or a corporation, anybody, could successfully open up and operate?

Mr. JONES. Well, I am speaking of an individual. A corporation might take 160 acres or a larger body and make a success of it. It depends on how the coal lies and what quantity there is on it, but I mean an individual, one single man, of his own efforts, unaided by anybody else, could not take 160 acres, or 1,060 acres, or any other amount that I can see, and handle it and work it as economically as a combination of men could.

Mr. MADISON. Well, if he had money enough he could, could he not?

Mr. JONES. Yes; if he had money enough, I expect he could.

Mr. MADISON. It is simply a question of capital?

Mr. JONES. Yes, sir.

Senator ROOT. Your idea is that nobody in the United States has money enough to work a 160-acre tract of coal?

Mr. JONES. I am not speaking of that; I am speaking of these 990 coal claimants themselves. They might work it as a hobby, but I do not think any individual would make much out of it.

Mr. McCALL. But, Mr. Jones, you said the law was ridiculous; you did not say that simply with reference to those particular claims, but that it was as a general proposition?

Mr. JONES. Yes, sir. As a general proposition it is ridiculous, that any man should go up there and take 160 acres of coal land never expecting to combine with anyone else to work it, and you will find that is the consensus of opinion of persons more learned in Alaska matters than I am.

Mr. OLMSTED. Suppose that you were worth \$10,000,000, would you put enough of your \$10,000,000 into the development and operation of a single quarter section of 160 acres?

Mr. JONES. No, sir; I am sure I would not.

Mr. OLMSTED. That is what I am asking you. What I want to get is, how many acres would you require to justify you in making the necessary expenditures to operate the plant?

Mr. JONES. That is a pretty hard matter to say. I am not an expert in any of these things, and I do not know anything about coal, or how much would be necessary to justify a man in expending anything.

Mr. VERTREES. Pursuing that just a little, Mr. Jones. You do recognize this as a fact, that conditions in Alaska are such that in order to mine coal in those fields and get it out to market at all, by reason of its location and peculiar natural conditions, it would require a very large sum of money, would it not?

Mr. JONES. Yes.

Mr. VERTREES. To build railways and to establish the plant?

Mr. JONES. Yes, sir.

Mr. VERTREES. And you also do recognize the fact that to justify that outlay a man ought to have control of a much larger area than 160 acres to work on. Is that not so?

Mr. JONES. I do not think that. When an individual, as I said before, has a much larger area to work on, he would have just that much more outlay to make.

Mr. VERTREES. You do not catch my thought.

Senator ROOT. I do not think it worth while, Mr. Vertrees, to pursue this any further.

Mr. VERTREES. We understand it now. Still, Mr. Jones, as I understand you, you have all the time been in favor of what is known as the leasing system?

Mr. JONES. Yes, sir.

Mr. VERTREES. That is to say, that you think these minerals and coal in Alaska ought not to be sold to anybody?

Mr. JONES. I think the Federal Government ought to retain some control over them; yes, sir.

Mr. VERTREES. Of course, some control. You mean by that to own them and lease them out to parties who would work them?

Mr. JONES. I have never worked out any scheme of salvation.

Mr. VERTREES. What do you mean by leasing them? You said you were in favor of the leasing system.

Mr. JONES. That was one of the schemes by which the Government could retain control on royalties, while this matter of royalties permitted a man to take a thousand acres or so and work that on royalties.

Mr. VERTREES. Do you not know in point of fact that at that time Mr. Ballinger had the idea that the leasing system was not the wisest system, and that the true system was a sale of the coal?

Mr. JONES. No, sir; I do not know what Mr. Ballinger's views at that time were.

Mr. VERTREES. Did you not know when he told you that he wanted you to make reports to acquaint him with the situation, which you say he did tell you, to the end that he might appear before Congress intelligently and explain the situation to them; that that was the view he had, and that he did go before a committee and explain his views on that question?

Mr. JONES. That he had what views?

Mr. VERTREES. The view that the minerals, or rather, the coal of Alaska—the system should be one of selling instead of leasing?

Mr. JONES. No, sir; Mr. Ballinger never told me what his views were. He said that the law ought to be changed, and he wanted to have an idea what had been done in order to speak intelligently.

Mr. VERTREES. Do you know what Mr. Ballinger said on the 3d day of March, 1908, the day before he ceased to be commissioner, on that subject?

Mr. JONES. No, sir.

Mr. VERTREES. Have you not read those proceedings?

Mr. JONES. I have not.

Mr. VERTREES. And he did not discuss them with you?

Mr. JONES. No, sir; you are speaking of the summer of 1907?

Mr. VERTREES. Yes, sir.

Mr. JONES. No, sir.

Mr. VERTREES. Well, Mr. Ballinger ceased to be commissioner on the 4th of March, 1908?

Mr. JONES. I presume so.

Mr. VERTREES. Don't you know that as a fact?

Mr. JONES. Yes, sir.

Mr. VERTREES. Now, when you stated that you had been sent up to make reports and make examinations by special directions, and

certain claims, or groups of claims, were especially named, I will ask you if it is not true that that did not include any of the Cunningham cases, or of the Cunningham group?

Mr. JONES. You mean in this letter of June 21, 1907?

Mr. VERTREES. Yes, sir; it related to other claims, did it not, that is the letter of Commissioner Dennett to you, dated June 21, 1907?

Mr. JONES. I was instructed to investigate all of the coal claims in Alaska; yes, sir.

Mr. VERTREES. You have spoken of a conversation with Mr. Munday—I think that is the name—he did not represent any of these claims, did he?

Mr. JONES. He represented the Stracey group of claims.

Mr. VERTREES. I will ask you if your specific instruction was not as appears on page 23 of the list, as follows:

It is desired by this office that you make a thorough, complete, and energetic investigation of the charges contained in Mr. Duffield's letter and those referred to in Mr. White's affidavit, and any other like violations of the law in reference to coal entries in that locality. This you will do to the exclusion of any other business, and you will confine your efforts to these cases until such time as you have thoroughly covered the whole field of investigation.

Mr. JONES. Yes, sir.

Mr. VERTREES. Those offenses mentioned in Mr. Duffield's letter, and referred to in Mr. White's affidavit, had no relation to the Cunningham group, did they?

Mr. JONES. Any offenses of like nature would embrace the Cunningham group or any other claims.

Mr. VERTREES. That is in the report. I ask you what the letter and affidavit referred to, whether they referred to anything in connection with the Cunningham group.

Mr. JONES. Not that I recollect.

Mr. VERTREES. Now, were not those lands in what was known as the Matanuska field?

Mr. JONES. You mean those referred to in Duffield's letter?

Mr. VERTREES. Yes.

Mr. JONES. Yes, sir.

Mr. VERTREES. And the Cunningham group lay in the Kattala field, some distance away, entirely separate?

Mr. JONES. Yes, sir.

Mr. VERTREES. What did I understand you to say, when you had a conversation with Mr. Ballinger after this letter had been received and you had worked a while under it, as to confining your efforts to a few claims in each group?

Mr. JONES. I was talking with him about the difficulties of making this examination and the extent of time that would be occupied in the examination, going all around the United States interviewing those parties, and told him it would take six months or more. He then said that he wanted to appear before Congress and move for remedial legislation, and I said "Well, my suggestion is that I get an idea from each one of the groups, from two or three persons of each group," and he says "How long will that take?" and I told him I thought it would take quite a short time. I told him that Mr. Love could go down to Seattle and take affidavits on the Seattle claims, and I would go to Portland and Spokane and get all I could there.

Mr. VERTREES. At any rate, the suggestion originated with you as the best one under the circumstances of the situation to pursue!

Mr. JONES. Yes, sir; he said he was inexperienced in those matters and that I knew more about it than he did, and that was my suggestion.

Mr. VERTREES. In your letter to Mr. Glavis of December 2, 1907, which appears at page 41 of the list, among other things you say, in reference to a conversation you had with Mr. Ballinger, this:

I told him that I had just begun the investigation and had taken no affidavits. He, probably believing that I was more familiar with the procedure of the office in regard to investigations of alleged frauds, left the matter to me for the time being.

That is what you referred to, is it?

Mr. JONES. Yes, sir.

Mr. VERTREES. This that you have just stated?

Mr. JONES. Yes, sir.

Mr. VERTREES. Did you explain to him the difficulty by reason of the lack of time to get all of the affidavits, and that you thought it would be a good idea to get enough to give the situation as to each, or a reasonable situation?

Mr. JONES. I told him that if he wanted this investigation completed, or wanted to get his ideas within a certain time, that it would be an impossibility to get it all before Congress convened on the old method of getting around and interviewing each claimant, because they were scattered all over the United States.

Mr. VERTREES. And a great many of them.

Mr. JONES. Yes.

Mr. VERTREES. He then said to you, as you were familiar with the procedure, to go ahead and do the best way you could?

Mr. JONES. Yes.

Mr. VERTREES. And you then suggested a good idea would be to take a few of each?

Mr. JONES. I said: "If you want to have an idea of what is being done in these coal claims, you can get an idea of what the method of each group is by seeing two or three of each one of the groups."

Mr. VERTREES. And that was approved by both of you?

Mr. JONES. Yes, sir.

Mr. VERTREES. And you went to work on those lines?

Mr. JONES. Yes, sir.

Mr. VERTREES. And you returned and reported, and you say when you handed this in the judge said you had done very well.

Mr. JONES. Yes, sir.

Mr. VERTREES. Mr. Culver was also put to work in another part of the country at that time?

Mr. JONES. I have heard so, but do not know.

Mr. VERTREES. That was your information, that he was doing the work the same as you?

Mr. JONES. I understood that he was working on the Watson group around Chicago.

Mr. VERTREES. You have referred to a report of yours of November 1, 1908. Does that report not relate to the group known as the Anglo-American group and not to the Cunningham group at all?

Mr. JONES. No, sir.

Mr. VERTREES. Where were they located?

Mr. JONES. Most of the claimants were located in Portland, Oreg.

Mr. VERTREES. I speak of the claims, not of the residences of the people.

Mr. JONES. The claims were located up, I think, northeast of the Cunningham group; somewhere up in that vicinity.

Mr. VERTREES. They were altogether different from the Cunningham group?

Mr. JONES. Yes.

Mr. VERTREES. You have also said that you took up the matter of criminal prosecution with Mr. Todd, district attorney.

Mr. JONES. Yes, sir.

Mr. VERTREES. I will ask you if that did not relate to the Christopher and Simmons cases and not to the Cunningham cases?

Mr. JONES. That is what I said this morning.

Mr. VERTREES. And Mr. Todd said that he was satisfied with the way Judge Hanford treated him in the matter, and said he would prefer the matter to be taken up by the Attorney-General?

Mr. JONES. Yes, sir.

Mr. VERTREES. Now, you said you had a conversation with Mr. Glavis, in which you understood him to say that matters were standing still because they were waiting on legislation, or what he supposed would be legislation.

Mr. JONES. Yes, sir.

Mr. VERTREES. Now, at what time was that, Mr. Jones?

Mr. JONES. That was, I think, between November and March, 1908; some time between November and March, 1908; I can not remember the exact date.

Mr. VERTREES. You got that from Mr. Glavis.

Mr. JONES. Got what from Mr. Glavis?

Mr. VERTREES. The information they were expecting.

Mr. JONES. Yes; that was my understanding.

Mr. VERTREES. And as I understand you, you were of the opinion that the existing laws were ambiguous and absurd, and that there ought to be some legislation of some kind?

Mr. JONES. Yes, sir.

Mr. VERTREES. It was pretty much the opinion of the department as a whole that that was the situation.

Mr. JONES. It was the opinion of the field force that the laws were ridiculous, but should be enforced as they stood, but that any violation of the law should be prosecuted and the parties would forfeit their lands up to that time. It was not that remedial legislation should be passed making these old bogus claims good.

Mr. VERTREES. But there should be new legislation of a different kind for the future.

Mr. JONES. For the future; yes sir.

Mr. VERTREES. But you would go ahead on these people?

Mr. JONES. Yes, sir.

Mr. VERTREES. Now, you say you interviewed, among others, Green, McKenzie, Harriman, Rathbone, and Eccles?

Mr. JONES. Yes, sir.

Mr. VERTREES. They had no relation to the Cunningham group?

Mr. JONES. No, sir.

Mr. VERTREES. They were in no wise connected with that group, were they?

Mr. JONES. I think some of them told us the Cunninghams were not coming in under this new law; they were going to stand under the old law.

Mr. VERTREES. That is not my question. These people were not connected with the Cunningham group, I mean?

Mr. JONES. No; they——

Mr. VERTREES. But you did get information——

Mr. BRANDEIS. Wait a moment. He had not finished.

Mr. JONES. I said none of these parties were interested in the Cunningham group.

Mr. VERTREES. That was my question.

Mr. BRANDEIS. You said had no relation to it.

Mr. JONES. You said the conversation had no relation to the Cunningham group. I said some of them had said the Cunninghams were not coming in under the new law.

Mr. VERTREES. You said you had interviewed those people and he asked you if those persons had any connection with or relation to the Cunningham group.

Mr. JONES. You said did they have relation.

Mr. VERTREES. Yes.

Mr. JONES. I understood you mean the interviews and not the persons?

Mr. VERTREES. Now I speak of persons. You say they did not?

Mr. JONES. Not that I know of.

Mr. VERTREES. Now, I will ask you about the conversation. I understand you say that they did have relation to the Cunningham group thus far; that they informed you—some of them—that the Cunningham people would not come in under this act of 1908.

Mr. JONES. They were going to stand under the old law.

Mr. VERTREES. When was it you got this information from those people?

Mr. JONES. I think Mr. McKenzie told us that about June 26 or 27, 1909.

Mr. VERTREES. Now, you have said of the affidavit that you and Mr. Glavis made with respect to what Mr. McKenzie said at the time when he made his affidavit that four copies were made?

Mr. JONES. I said three or four copies.

Mr. VERTREES. And you said you kept a copy and Mr. Glavis one?

Mr. JONES. I kept one. I gave the others to him.

Mr. VERTREES. You do not know what became of the others?

Mr. JONES. No; I understood one copy was to be sent to the President to supplement his report.

Mr. VERTREES. What was to be done with the other?

Mr. JONES. I presume he was to keep a copy for himself.

Mr. VERTREES. There was still another; you had four?

Mr. JONES. I said three or four. I could not say whether three or four.

Mr. VERTREES. You are not sure how that was?

Mr. JONES. No, sir.

Mr. VERTREES. That is all.

Mr. BRANDEIS. Mr. Jones, you stated that none of those mentioned had any relation to the Cunningham group?

Mr. VERTREES. Will you pardon me, please, Mr. Brandeis? There was a question that I forgot.

Mr. BRANDEIS. Certainly.

Mr. VERTREES. I wanted to ask you something about the procedure there that you spoke of, in the prosecution of these claims. I was

not quite clear as to the way you left them, Mr. Jones. I understood you to say that Mr. Sheridan told you when you suggested a course of procedure that he would not adopt that, but in the place of it he would let you take the stand in rebuttal?

Mr. JONES. Yes, sir.

Mr. VERTREES. And say whatever you deemed necessary?

Mr. JONES. Yes, sir; that is correct.

Mr. VERTREES. You have made a statement as to his spreading out, as your expression was, the affidavits before his adversaries?

Mr. JONES. I said that he put his whole record down on the table and said he was going to present those, and they asked permission to examine them before they were presented, so as to see what they would object to.

Mr. VERTREES. Did you not mean by that the affidavit of the claimant when you said "the whole record?"

Mr. JONES. I mean the affidavits of claimants and the copies of the different documents that were got in regard to the case.

Mr. VERTREES. There was nothing in the affidavits that was new to the claimants, was there?

Mr. JONES. Well, they had an opportunity to look them over with their attorneys and prepare their defense.

Mr. VERTREES. They had made those same affidavits, had they not?

Mr. JONES. Yes, sir. But they did not have any copy of them, presumably.

Mr. VERTREES. You know that, do you?

Mr. JONES. I presume they did not. I did not give them to them, nor did Mr. Glavis.

Mr. VERTREES. The point I wish to get at is that there could be in the nature of things nothing new to those men who made those affidavits, could there?

Mr. JONES. Here is the proposition: They made those affidavits without the benefit of legal advice, and they had made them under the feeling of security that even if they had made a little mistake, there would be remedial legislation passed and they would not run any risk; whereas after the case came up for hearing those affidavits would be gone over by the attorneys for the defense and would show them——

The CHAIRMAN. Counsel understands that they were taken without the benefit of clergy.

Mr. VERTREES. You say they made them in a sense of security?

Mr. JONES. Yes, sir; I am speaking of the ones I took.

Mr. VERTREES. Yes, sir; I am sure that those were secure. You explained to them fully, did you, just what you took those affidavits for?

Mr. JONES. Yes, sir; I explained that I was investigating those coal cases, and that Mr. Ballinger had stated what his purpose was in——

Mr. VERTREES. Well, that his purpose was what?

Mr. JONES. That his purpose was to appear before Congress and work for remedial legislation.

Mr. VERTREES. So that was what you went at all these 900 claimants with, namely, that Mr. Ballinger was friendly and felt as if they ought to be relieved, and he was trying to get remedial legislation. Is that right?

Mr. JONES. Yes, sir; because I had been present with Mr. Ballinger when certain attorneys at Seattle came there and he talked the same with them, and I thought if the Commissioner of the General Land Office could state that, I could state it myself.

Mr. VERTREES. I am not on the reason, but the fact. I am on the fact that you approached these claimants to get them to make affidavits, the effect of which would be to both lose their titles and maybe get them indicted, with the statement that the Commissioner of the General Land Office was friendly to them, and you had come to get them, and that they might make them in a sense of security.

Mr. JONES. Yes, sir.

Mr. VERTREES. In that way nearly everyone of them made the admissions such as you were looking for?

Mr. JONES. They told the truth; yes, sir.

Mr. VERTREES. That is to say, he had in mind when he claimed this 160 acres that it was a foolish and absurd proposition for him to try and work on, and the only way for him to work it was to eventually combine with somebody; and with that in his mind he made that claim or location?

Mr. JONES. I got those statements. The statements show for themselves. Some of them admitted that they had that intention; yes, sir.

Mr. VERTREES. Now, your idea was that if a man had it in mind at the time he located the claim, whether he had an agreement or not then, if he had it in mind at the same time to make one, he was violating the law?

Mr. JONES. Do you mean subsequent to filing?

Mr. VERTREES. Yes; at any time.

Mr. JONES. No, sir; it was not my idea at all.

Mr. VERTREES. What was your idea about it? I gathered that idea this morning from what you said.

Mr. JONES. My idea was that if, at the inception of the entry he had any intention for the combination or disposal, and after the entry was made he committed some overt act in pursuance of that inception, that the entry was fraudulent.

Mr. VERTREES. Whether he had an agreement beforehand to commit the act or not?

Mr. JONES. Well, I understand——

Mr. VERTREES. I just want to get your situation, just the view you had when you approached these claimants, because that would explain your statement and your conduct.

Mr. JONES. My idea was that I think that was before the date of the rendering of the decision in the Williamson case, which involved matters somewhat similar to those in which it was held that once a man had this intention and the inception of the entry it did not make any difference what he did after the entry was made.

Mr. VERTREES. Yes; it was before that decision.

Mr. JONES. Yes, sir.

Mr. VERTREES. Now, your view before that decision was what?

Mr. JONES. I could not say whether that was before that decision or not; I do not remember the date of that decision. I would not make the statement.

Mr. VERTREES. That decision was not in accord with the view you had gotten, was it, previous to its coming out? You had worked in a different view, had you not?

Mr. JONES. Yes, sir; I understood that if they had any intention or had done anything to combine their claims before they proved up that they were fraudulent.

Mr. VERTREES. You say "If they had done anything." That is what I am getting at, of course. Let me go over that again to get your situation, Mr. Jones, at that time. Were you of the opinion when you approached these people that any locator who located with the ultimate purpose in his mind of combining or associating in some way with another it would be violating the law if he at any time thereafter did combine, although he may have had no agreement to combine at the time?

Mr. JONES. My understanding of the law was that if at the time he made examination, which was before final certificate had issued on the claim, if the parties had done any act looking toward a combination of their claims, that it was fraudulent.

Mr. VERTREES. You required that act. But suppose they had done no act; if the man came up and said—

Mr. JONES. If they agreed among them—four or five had got together and agreed that they were going to perform some act after the act was passed—it was fraudulent.

Mr. VERTREES. That is what I wish to get at. I will put a concrete case. Suppose a man located 160 acres, having no agreement with anyone at the time to combine, and well knowing his inability to work the 160 acres himself, but in the hope that when he did get his certificate of payment and had entered it that he could find somebody to combine with so as to work it or sell it, and intending to do that thing ultimately at the very time he located, was it or was it not your view that that meant if he did eventually combine with anybody he would violate the law?

Mr. JONES. No, sir; it was not my idea. My idea was that if he did anything, agreeing with several other men at that time to do this, after he had done it.

Mr. VERTREES. Was this your conception of the law at that time you were taking those statements of those people, that if a locator had it in his mind to eventually combine with somebody and that was his purpose when he located, but had not yet agreed to do it, but having that purpose, did subsequently, after he had completed his entry, combine with others?

Mr. JONES. Was it my idea that that was fraudulent?

Mr. VERTREES. I ask you whether you had the idea that that was a violation of the law or not when he did actually do so.

Mr. JONES. No, sir; according to my understanding there would have to be some overt act, either in speaking to several other people, or in doing something in pursuance of it. His mere unexpressed opinion to anyone, I do not think, would affect the validity of his claim.

Mr. VERTREES. What do you mean by an overt act?

Senator ROOT. Mr. Vertrees, does it make any difference what he means? You are now asking him about what he thinks with regard to the law. It does not make any difference, does it?

Mr. VERTREES. Well, I will not pursue it any further.

I had this thought in mind. I was trying to get at just how he approached these people and what he may have said to them to get them to make these affidavits.

Senator ROOT. That is immaterial.

Mr. JONES. All I asked the people to do was to tell the truth.

Senator ROOT. Never mind. Let us get through with this cross-examination and go on to something more important.

Mr. VERTREES. That is all.

Mr. BRANDEIS. Mr. Jones, you said that these gentlemen whom you mentioned had no relation to the Catalla claims. Now, Mr. Eccles was one of these men, and was he not known to you to be a manager of the Guggenheim Company?

Mr. JONES. Yes, sir; they were projecting a two and a half million dollar railroad in that country that would probably tap these Cunningham claims.

Mr. BRANDEIS. Did you know anything at that time about the agreement which the Alaska Morgan-Guggenheim syndicate had with the Cunninghams in relation to their claims?

Mr. JONES. At the time of this conversation, do you mean?

Mr. BRANDEIS. Yes.

Mr. JONES. I knew of the deal that was on between them.

Mr. BRANDEIS. This man Eccles did have some relation then to the Cunningham claims?

Mr. JONES. He was inquiring for the patenting of claims up there. He did not designate any particular claims.

Mr. BRANDEIS. You mean that he did not speak to you about the Cunningham claims?

Mr. JONES. No; he did not mention the Cunningham claims by name.

Mr. BRANDEIS. Now, in your report of August 13 you speak, at the close of it:

From the talk of different attorneys and individuals interested in the Alaska coal lands I feel that the disposal of the lands all tend toward one direction, and that is the Guggenheim companies.

What did you base that statement on?

Mr. JONES. I based that statement on the evidence I secured in Spokane from Mr. Fred Mason and Mr. A. B. Campbell; also from talks I had from various people on the way to Alaska and at Seattle, and also from an affidavit we got from one Mabel B. McIntyre, who was located on a coal claim up there by the name of Chizum, who stated that she had been told by Mr. Chizum that the Cunningham people were interested in his location and were putting up some money for the development of the claims jointly, and that the Guggenheims were going to put up a railroad there and would take coal out.

Mr. BRANDEIS. What group was this McIntyre claim in?

Mr. JONES. She was in the Chizum group, and she adjoins this Cunningham group on the north, I think.

Mr. BRANDEIS. Now, Mr. Vertrees read from what purported to be a statement of Mr. McKenzie to President Roosevelt, in which he says:

It may be that the locators were somewhat careless in not ascertaining the provisions of the new rules and regulations, but it has been the custom of Alaskans, and I believe throughout the West generally, to feel that when a person found anything of value on the public domain he could take possession of it, knowing that his rights would be recognized.

Now, I ask you to look at that list of the Cunningham claimants which appears in your report of August 13, 1907, and let the committee know how many of the Cunningham claimants could be properly designated as Alaskans.

Mr. JONES. I should not say that any of them could.

Mr. BRANDEIS. Ignatius Mullen's son was an Alaskan, was he not?

Mr. JONES. His father lived in Alaska, but he spent part of his time in Seattle and up in that part of the country, and partly in Alaska. I think he was a traveling salesman a part of the time.

Mr. BRANDEIS. In your earlier examination you were referred to the statement that this cutting out of the register and receiver's office in the taking of testimony was done for the purpose of saving time and expense, and you made the statement, which I think was to the effect that that seemed to you a reasonable provision. Now, I want to know whether it is a fact that the cutting out of the register and receiver's office and the appointment of this special commissioner, Magee, was a saving of expense in the conduct of this case?

Mr. JONES. I should say not.

Mr. BRANDEIS. Why not?

Mr. JONES. Because they could have appointed some county clerk or the register or receiver of some office in the State to have taken the testimony of those parties and the testimony would have cost them much less than it did. I think one of the items of this hearing in Seattle was \$1,100 in testimony for one week, and they could have been more expeditious and could have the cases for longer hours, and I venture to say that they could have saved considerable money, and if they had—

Mr. BRANDEIS. Now, Mr. Vertrees asked you in examining you in regard to the cutting out of the register and receiver's hearing up there and the stipulation that had been made, whether it would not have been a perfectly unreasonable thing to have the witnesses go to Alaska.

Mr. JONES. That was not the effect of the cutting out. The only thing they cut out was the testimony itself going up before the register and receiver and there passing on it. It never was presumed that the witnesses would be brought to Alaska.

Mr. BRANDEIS. Is it ever done in these cases, and would it ever be done, that the witnesses would be taken to Alaska because there was a hearing before the register and receiver?

Mr. JONES. No, sir; the witness has to testify where he resides and where he is found at the time. You can not remove them from the county in which they reside.

Mr. BRANDEIS. Now, you have stated when you submitted the report of August 10, 1907, to Commissioner Ballinger you also submitted to him the affidavits, or copies of the affidavits, referred to in that report. There were, were there not, referred to in that report affidavits in the Cunningham case?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. What were they?

Mr. JONES. The affidavits of Fred H. Mason and A. B. Campbell.

Mr. BRANDEIS. Were those affidavits affidavits which would be deemed favorable affidavits toward the allowance of the Cunningham claims?

Mr. JONES. I did not deem them such.

Mr. BRANDEIS. Why not?

Mr. JONES. Well, Mason said that it was his intention to combine and issue stock—form a corporation and issue stock on his claim.

Mr. BRANDEIS. Then you considered these affidavits as affidavits tending to show that the Cunningham claims were fraudulent?

Mr. JONES. Yes, sir; I considered that they tended to show that there should be a more complete investigation of the claims.

Mr. BRANDEIS. That is reasonable ground for believing that the testimony should be proceeded with?

Mr. JONES. Yes, sir.

Mr. BRANDEIS. Now, you stated in answer to one of the questions that one of the criticisms that you had of Mr. Sheridan's manner of conducting the hearing was that he was too polite to the witnesses. What did you mean by that—that is, to the claimants as witnesses—what did you mean by that?

Mr. JONES. Well, he asked them questions in an apologetic tone and would nod his head all the time when they were answering, and he went up to Mr. Finch and apologized for using a little kind of increased speed in asking him some questions when he followed him out into the hall.

Mr. BRANDEIS. That is all.

Mr. OLNSTED. Do you think it was a sign of incompetence that he nodded his head?

Mr. JONES. I think it is a sign of inexperience, though, the manner in which he cross-examined the witnesses.

Mr. VERTREES. Let me ask you just one question. Did you examine the record at the noon hour to see in whose examination it was that the question was asked to which you referred?

Mr. JONES. I did to a certain extent, but I did not have volume 2. I looked through volume 1, but it does not occur in that volume.

Mr. VERTREES. Will you examine, in the meantime—that is, between this and to-morrow—and point out where that question is to which you refer, in your original examination?

Mr. JONES. Yes, sir.

Mr. VERTREES. You can not recall the name of the witness, can you?

Mr. JONES. No sir; I can not.

Senator FLETCHER. Mr. Jones, you referred to affidavits of Campbell and Mason. Are they the affidavits that are found on pages 26 and 27 of this list? Will you specify the affidavits to which you had reference?

Mr. JONES. Yes, sir; that is the affidavit.

Mr. GRAHAM. What part of that affidavit do you consider material as suggesting the necessity for further examination or investigation?

Mr. JONES. It is this part:

We have often talked of what we were going to do with our claims, both before and after making entry. The popular idea with us is that after we get our titles from the Government we will make an effort to get a railroad to our land, so as to get the coal out for shipment. We thought that if it were perfectly legal we would form a company and issue stock for the securing of bonds for the building of a road to this land, but we don't want to do anything that is not regular. Or, we thought if we could get somebody to take a part of the stock and put a railroad in, we might do that.

And also the part relating to the representatives of the American Smelting and Refining Company. I thought that was sufficient to

warrant a further investigation in order to find out what they had done in pursuance of those thoughts.

Mr. VERTREES. That is all.

The CHAIRMAN. Is that all for this witness? Do you want the witness retained until to-morrow?

Mr. VERTREES. He is going to make that examination which I requested him to make.

Mr. BRANDEIS. Mr. Chairman, I would like now to have that box brought in, as we wish to examine the next witness in relation to it.

The CHAIRMAN. Put your witness on the stand.

TESTIMONY OF ANDREW KENNEDY.

Andrew Kennedy having been first duly sworn by the chairman, testified as follows:

Mr. BRANDEIS. Mr. Chairman, I would like Mr. Sleman, the secretary, to furnish me with the daily reports of Mr. Kennedy, as I desire to introduce those daily reports of this witness.

The CHAIRMAN. Please give us the dates of them.

Mr. BRANDEIS. They are from March to December, 1909.

Senator FLETCHER. Suppose you lay the foundation for their introduction. Let us know who this witness is and what right he had to make reports.

Mr. BRANDEIS. The reports were made to the Interior Department. Mr. Kennedy, what is your occupation?

Mr. KENNEDY. I am a practical mining engineer.

Mr. BRANDEIS. You were formerly a special agent of the General Land Department, were you not?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. How long were you special agent?

Mr. KENNEDY. From somewhere about January, 1908, to the 1st of last January.

Mr. BRANDEIS. And you are acquainted with Secretary Ballinger, are you?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And were previously to your appointment as special agent?

Mr. KENNEDY. I worked for him——

Mr. BRANDEIS. I say you were acquainted with him prior to your appointment?

Mr. KENNEDY. Yes, sir; for about five or six years.

Mr. BRANDEIS. And you were appointed by him personally?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. As you were not a civil service appointee?

Mr. KENNEDY. I understood I was appointed under the excepted class.

Mr. BRANDEIS. You had been connected, prior to your appointment, with the companies for which—or one or more of the companies for which Mr. Ballinger had acted as counsel?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. The coal company?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And you are specifically a coal expert, are you?

Mr. KENNEDY. I have made that my business.

Mr. BRANDEIS. How long had you been engaged in that profession prior to your appointment as special agent in 1908?

Mr. KENNEDY. About twenty-three or twenty-four years examining land and operating mines.

Mr. BRANDEIS. And since your retirement from the office in January, 1910, you have been conducting likewise, or carrying out your profession for private clients?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. You have seen Secretary Ballinger since you were called as a witness here?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And have also conferred with his counsel, Mr. Vertrees?

Mr. KENNEDY. When I saw him Mr. Vertrees talked with me about the box, but he did not ask me anything about it.

Mr. BRANDEIS. That is, Mr. Ballinger himself did not.

Mr. KENNEDY. No, sir.

Mr. BRANDEIS. He referred you to his counsel, Mr. Vertrees?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. But you did talk freely to him?

Mr. KENNEDY. Yes, sir; about the box. I think the only question brought up was about the boxes.

Mr. BRANDEIS. As coal expert you were called upon to act in connection with the Alaska coal cases, were you not?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. When?

Mr. KENNEDY. I think some time in April, 1908. I first interviewed some parties concerning the Alaska coal cases.

Mr. BRANDEIS. That was in the States; that was service in the States, was it not?

Mr. KENNEDY. That was in the vicinity of Seattle, Wash.

Mr. BRANDEIS. And subsequently what service did you perform in connection with the Alaska coal cases?

Mr. KENNEDY. I think since about May of last year I worked on the cases continually up to the 1st of January last.

Mr. BRANDEIS. And in connection with that work you proceeded to Alaska?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. When did you leave Alaska, and how long were you there?

Mr. KENNEDY. I left about the 15th of July and returned within a day or two of the 22d of September.

Mr. BRANDEIS. After that time what did you do in relation to these cases?

Mr. KENNEDY. I made a report of the field examination which I made there and testified at the Cunningham hearing in Seattle.

Mr. BRANDEIS. And what you have done in this connection—a brief report of your daily service is contained in these reports, in the daily reports which you sent to the chief of the division in the General Land Office?

The CHAIRMAN. Mr. Brandeis, may I just ask a question for information?

Mr. BRANDEIS. Certainly.

The CHAIRMAN. Did you examine both fields, the Catalla field and the Matanuska field?

Mr. KENNEDY. No, sir; only the Catalla.

The CHAIRMAN. That is all.

Mr. BRANDEIS. And you made examination, among other things, of the Cunningham claims?

Mr. KENNEDY. The Cunningham claims were in the Catalla field. I examined those.

Mr. BRANDEIS. I think now, Mr. Chairman, I will introduce these reports and call attention to those that seem important later.

The CHAIRMAN. Give the dates to the stenographer.

Mr. BRANDEIS. They begin in March, 1909, and end in December, 1909.

The CHAIRMAN. If there is no objection, they will be admitted. The Chair hears none, and they are admitted.

(The daily reports of Mr. Kennedy from March, 1909, to December, 1909, are as follows:)

Daily reports, March, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Monday, Mch. 1, 1909, Portland, Ore.:

Arranging cases for field examination. Consulted with Mr. Glavis, chief, in re Idaho cases. At Portland, Ore., to O. R. & N., T. R. 17958 for ticket Portland, Ore., to Shaniko, Ore., \$6.00. At Portland, Ore., to O. B. B. Co., baggage, hotel to depot, .25.

Tuesday, Mch. 2, 1909, Portland and Dalles, Oregon:

Working on and completed report in re Idaho case. At 7 p. m., via O. R. & N., leave Portland, ar. at The Dalles, Ore., 9.45 p. m. Paid Pullman Co. for seat, Portland to The Dalles, Ore., .50.

Wed., Mch. 3, 1909, The Dalles & Shaniko, Ore.:

At The Dalles land office. Examined tract books in re cases for field examination. At 11.15 a. m., via O. R. & N., leave The Dalles. Ar. at Shaniko 5.20 p. m. Paid at The Dalles for baggage, depot to hotel and returning to depot, \$.25.

Thursday, Mar. 4, 1909, Shaniko and Antelope, res. of J. E. Kimsey, sec. 20, T. 8 R. 16:

At 9.15 a. m. lv. Shaniko, Ore., for country with two horses, buggy, and driver. At 6.50 p. m. put up for night at residence of Seldon Simpson in sec. 20, T. 8, R. 16. Drove 20 miles, roads bad.

Friday, March 5, 1909, res. J. E. Kimsey, S. 20, T. 8, R. 16; res. N. A. Newbill, S. 5, T. 13, R. 15:

At 7.30 a. m. lv. rd. of J. E. Kimsey, sec. 20, T. 8, R. 16, via 2 horses, buggy, and driver. Drove 35 miles, roads good.

Saturday, March 6, 1909, res. N. A. Newbill, s. 5, T. 13, R. 15:

At 7.40 a. m. lv. res. N. A. Newbill, 2 horses, buggy, and driver, for country. Ex. T. T. 890 of John Kemmling (good). Ar. at Prineville 4 p. m.; drove 25 miles; roads bad; snow and mud.

Sunday, Mch. 7, 1909, Prineville country, sec. 8, T. 14, R. 18, and Prineville, Ore.:

At 7.30 a. m. lv. Prineville for country, two horses, buggy, and driver. Ar. at Prineville, Ore., at 7 p. m. Drove 41 miles; roads fair.

Monday, March 8, 1909, Prineville, Ore., and country:

At 7.40 a. m. lv. Prineville, Ore., for country via team and driver. Ar. at Prineville, Ore., at 5.10 p. m. Drove 24 miles; roads fair.

Tuesday, Mch. 9, 1909, Prineville and country:

At 7.30 a. m. lv. Prineville, Ore., for country via team and driver. From Prineville to first work on my list, which is in T. 17, R. 24, is 60 miles. Drove 36 miles of the trip. Drove to sec. 4, T. 17, R. 20. Put up for night at 5.30 p. m. Roads hilly and muddy.

Wednesday, Mch. 10, 1909, Paulina and country, sec. 4, T. 17, R. 20:

At 7.10 a. m. lv. sec. 4, T. 17, R. 20, with team and driver for country. At 6.30 p. m. put up for night at residence of March Logan on sec. 4, T. 16, R. 24. Drove 35 miles; roads bad.

Thursday, Mch. 11, 1909, residence of March Logan, sec. 4, T. 16, R. 24, and country:
At 8 a. m. lv. residence of March Logan, sec. 4, T. 16, R. 24, via team and driver for country. Ar. at residence of Martha Treichel at 6 p. m. in sec. 32, T. 16, R. 25. Drove 15 miles; road fair.

Friday, March 12, 1909, at residence of Martha Treichel, sec. 32, T. 16, R. 25, and country:

At 7 a. m. Lv. residence of Martha Treichel, sec. 32, T. 16, R. 25, with team and driver for country. Ar. at Supplee, Ore., at 6 p. m. Drove 28 miles; roads bad.

Saturday, Mch. 13, 1909, Supplee, Ore., and country:

At 7.30 a. m. Lv. Supplee, Ore., for country via team and driver. At 6.30 p. m. put up for night at residence of I. M. Mills. Drove 14 miles around fences; roads hilly.

Sunday, Mch. 14, 1909, at residence of I. M. Mills, sec. —, T. 18, R. 25, and country.
At 8 a. m. Lv. residence of I. M. Mills, T. 18, R. 25, by team and driver for the country: Ar. at residence of A. L. Mackintosh at 5.30 p. m. Drove all day around fences; made about 20 miles.

Monday, March 15, 1909, at residence A. L. McIntosh, T. 19, R. 24 & country:

At 8 a. m. Lv. residence of A. L. McIntosh, T. 19, R. 24, for country, with team and driver. Drove 28 miles; roads bad.

Tuesday, Mch. 16, 1909, at residence Mr. Street, S. 22, T. 21, R. 23, and country:

At 7 a. m. Lv. residence of Mr. Street, sec. 22, T. 21, R. 23, for country via team and driver. At 5 p. m. put up for the night at residence of Paul Held, in sec. 4, T. 19, R. 19. Drove 40 miles; roads good and bad.

Wednesday, Mch. 17, 1909, at residence of Paul Held, sec. 4, T. 19, R. 19, and country:

At 7.45 a. m. Lv. residence of Paul Held, sec. 4, T. 19, R. 19, and country via team and driver. At 5.10 p. m. put up for night at residence of Chas. Daley, in sec. 34, T. 17, R. 15. Drove 31 miles; roads very hilly and muddy.

Thursday, Mch. 18, 1909, at residence of Chas. Daley, sec. 34, T. 17, R. 15, Bend county and Laidlaw, Ore.:

At 7.15 a. m. lv. residence of Chas. Daley, sec. 34, T. 17, R. 15, via team and driver for country. Ar. at Laidlaw, Ore., at 4 p. m.; put up for night at 9 p. m. Drove 30 miles. Roads fair.

Friday, Mch. 19, 1909, Laidlaw, country, Tumalo and Cline Falls, Ore.:

At 7.40 a. m. lv. Laidlaw via team and driver for country. At 6.10 p. m. ar. at Cline Falls, Ore.; put up for night.

Saturday, Mch. 20, 1909, Cline Falls, Ore., and country, Youngs P. O.:

At 7 a. m. lv. Cline Falls via team and driver for country en route to Shaniko. Drove 42 miles; put up for night at Youngs P. O., at 5.10 p. m. On 18th at Bend, Ore.; paid for phone message, Bend to Prineville, \$0.50; on 18th at Laidlaw, Ore.; paid for two phone messages from Laidlaw to country, \$0.20.

Sunday, Mch. 21, 1909, Youngs P. O. & Shaniko, Ore.:

At 7 a. m. lv. Youngs P. O. via team and driver for Shaniko, Ore. Ar. at Shaniko 3 p. m. Drove 32 miles on Vr. 1; paid D. A. Howell, of Shaniko, Ore., for hire of two horses, buggy, and driver from Shaniko, Ore., to country and return, from 9.15 a. m., Mch. 4, to 3 p. m., Mch. 21, 1909, 18 days, at \$6.22 per day, cost of boarding driver and horses included in cost of hire, \$111.96.

Monday, Mch. 22, 1909, Shaniko and Portland, Ore.:

At Shaniko, issued to O. R. & N. Co. T. R. 17959 for transportation, Shaniko to Portland, Ore., \$6.00. At — a. m. lv. Shaniko, Ore., via O. R. & N. Ar. at Portland at 5.45 p. m.; at Portland paid B. & O. transfer, baggage, depot to hotel and office, \$0.50.

Tuesday, Mch. 23, 1909, Portland, Ore.:

Paid M. F. Davis, P. M., Union, Ore., Vr. 2, 3, & 4, service of subpoenas on Geo. Huffman, W. B. Gassett, and Lewis E. Titus, in case of U. S. vs. Wm. Haynes, H. E. 03346, 3, at 1.00 each, \$3.00. Paid H. S. Casteel, P. M., Pilot Rock, Ore., on Vr. 5 & 6, service of subpoena on C. W. Matthews, U. S. vs. Wm. Gritton, Umatilla, C. E. 570, and on D. C. Phillips, U. S. vs. Mary Jordan, H. E. 12360, 2, at 1.00 each, \$2.00. Wrote letter in re above. Arranging cases; examined for dictation.

Wednesday, Mch. 24, 1909, Portland, Ore., and en route:

Paid on Vr. 7, to Frank Ferguson, Alene, Ore., service of subpoena on Frank Ferguson in case U. S. vs. Grace E. Smith, H. E. 13074, \$1.00. At Portland paid for baggage hotel to depot, .25. At 7.45 p. m., via S. P. Ry. lv. Portland for Medford, Ore. Paid Pullman Co. for berth, Portland to Medford, Ore., \$2.50. Paid on train S. P. Ry. Co. for ticket from Portland to Salem, Ore. (did not have time to purchase ticket), \$1.65. At Salem, Ore., issued to S. P. Ry. Co. T. R. 17960 for ticket Salem, Ore., to Medford, Ore., and return, fare \$16.60.

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Thursday, Mch. 25, 1909, Medford and Jacksonville, Ore.:

Paid porter fee en route Portland to Medford, Ore., .25; ar. at Medford, Ore., at 11.05 a. m. At 11.30 a. m. lv. Medford via R. R. V. Ry., ar. Jacksonville at 12 noon. Paid R. R. V. Ry. Co. fare Medford to Jacksonville, Ore., .25. At Jacksonville, Ore., ex. county records in recorder's office.

Friday, Mch. 26, 1909, Jacksonville, Ore., and en route:

At county recorder's office in Jacksonville, Ore., ex. records. At 3.30 p. m. lv. Jacksonville, Ore., via R. R. V. Ry., ar. at Medford, Ore., 4 p. m. Paid R. R. V. Ry. Co. fare Jacksonville, Ore., to Medford, Ore., \$.25; At Medford, Ore., paid Pullman Co. for berth Medford, Ore., to Portland, Ore., \$2.50; at 5.45 p. m. via S. P. Ry., lv. Medford, Ore. On the train paid S. P. Ry. Co. fare from Salem, Ore., to Portland, \$1.65; when leaving Portland did not have time to purchase ticket until reaching Salem, Ore.

Saturday, Mch. 27, 1909, Portland, Ore.:

Paid porter fee en route Medford to Portland, Ore., \$.25; ar. at Portland, Ore., at 7.30 p. m. At Portland, Ore., paid for baggage, depot to hotel, \$.25. Wrote letter R. A. R., Burns, for data. Wrote letter J. C. Turney, Burns, in re town plats. Reported findings of records at Jacksonville, Ore. Paid on Vr. 8 & 9 to J. T. Brown, Pendleton, Ore., serving subpoena on Allen Rhodes in case U. S. vs. Chas. C. Foster, Umatilla entry 323, and subpoena on Neut Newton in case of U. S. vs. Alfred Tillman, deceased, Umatilla entry 689, two (2) at 1.00 each, 2.00.

Sunday, Mch. 28, 1909, Portland, Ore.:

Assisting Mr. Glavis, chief of Field Div., with papers in Binger Herman case.

Sunday, March 28, 1909, Portland, Ore.:

Assisted Mr. Glavis, chief of field division, in Binger Herman papers.

Monday, Mch. 29, 1909, Portland, Ore.:

Assisting Mr. Glavis, chief of Field Div., with papers in Binger Herman case.

Tuesday, Mch. 30, 1909, Portland, Ore.:

Assisting Mr. Glavis, chief of Field Div., with papers in Binger Herman case. Issued at Portland to N. P. Ry., T. R. 17961, ticket, Portland to Seattle, Wash.; fare, \$5.60. At Portland paid Pullman Co. berth, Portland to Seattle, \$2.00. At Portland, on Vr. 10, paid excess baggage & cartage \$1.10. At Portland, paid bus fare, hotel to depot, .25. At 11.45 p. m. lv. Portland for Seattle, Wn.

Wednesday, Mch. 31, 1909, Seattle, Wn.:

Paid porter fee, en route Portland to Seattle, \$.25. Ar. at Seattle, Wn., 7 a. m. At Seattle paid, on Vr. 11, Seattle Transfer Co., cartage on baggage of Mr. Glavis, chief, and self, depot to hotel, \$3.20. Assisted Mr. Glavis in temporary office in post-office bldg.

Daily Reports, April, 1909.

[All signed "Andrew Kennedy, special agent."]

Thursday, April 1, 1909, Seattle, Wn.:

Assisting Mr. Glavis, chief, with papers in temporary office in P. O. building. On Vr. 1 paid Pacific Express Co. express on government papers and files from Portland to Seattle, 1,236 lbs. at \$1.25 per hundred graduate rate, \$13.60.

Friday, April 2, 1909, Seattle, Wn.:

Assisting Mr. Glavis, chief, with papers in temporary office in post-office building.

Saturday, April 3, 1909, Seattle, Wn.:

Assisting Mr. Glavis, Chief of Field Division, with papers and files in Seattle office.

Sunday, April 4, 1909, Seattle, Wash., Sunday.

Monday, April 5, 1909, Seattle, Wn.:

Assisting Mr. Glavis, Chief of Field Division, with papers and files in office.

Tuesday, April 6, 1909, Seattle and Fairfax, Wn.:

Assisting Mr. Glavis, Chief Field Div., in office with papers and files. At Seattle, Wn., paid N. E. Ry. Co. for ticket from Seattle to Fairfax, Wn., \$1.70. At 2.40 p. m. Lv. Seattle, Wn., via N. P. Ry. Ar. at Fairfax, Wn., 7.20 p. m.

Wednesday, Apr. 7, 1909, Fairfax, Wn., & country:

Paid at Fairfax, Wn., to Pacific States Telep. & T. Co. for message from Fairfax to Forest Supv. G. F. Allen at Orting, for authority to use ranger as a guide.

Thursday, April 8, 1909, Fairfax, Wn., and country:

At 8.15 a. m. lv. Fairfax, Wn., for country via saddle horse, and T. E. O. Farrel, Ranier P. Org guard, as a guide. Ar. at Fairfax, Wn., at 5.15 p. m.

Friday, April 9, 1909, Fairfax, Tacoma, & Seattle, Wn.:

At 5.40 a. m. lv. Fairfax via N. P. Ry. Ar. at Tacoma 8.15 a. m. Paid N. P. Ry. ticket Fairfax to Tacoma, \$1.24. In Tacoma paid four street-car fares at 5c each, .20. At Tacoma pd. Puget Sound Ry. Co. fare Tacoma to Seattle, .60. At 4.15 p. m. via P. S. Ry. lv. Tacoma. Arrive Seattle, Wn., 5.40 p. m.

INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY. 1015

Saturday, April 10, 1909, Seattle, Wn.:
 Made fav. rpt.
 Sunday, April 11, 1909, Seattle, Wn.:
 Assisted Mr. Glavis, chief, with papers and files in the office.
 Monday, April 12, 1909, Seattle, Wash.:
 On sick leave with pay.
 Tuesday, Apr. 13, 1909, Seattle, Wash.:
 On sick leave with pay.
 Wednesday, Apr. 14, 1909, Seattle, Wash.:
 On sick leave with pay.
 Thursday, Apr. 15, 1909, Seattle, Wash.:
 On sick leave with pay.
 Friday, Apr. 16, 1909, Seattle, Wash.:
 On sick leave with pay.
 Saturday, Apr. 17, 1909, Seattle, Wash.:
 On sick leave with pay.
 Sunday, Apr. 18, 1909, Seattle, Wash.:
 On sick leave with pay.
 Monday, April 19, 1909, Seattle, Wash.:
 On sick leave with pay. Paid Pacific States Telephone Co. for message, Seattle to Palmer, Wash, to secure coal examiner, .25.
 Tuesday, Apr. 20, 1909, Seattle, Wash.:
 On sick leave with pay.
 Wednesday, Apr. 21, 1909, Seattle, Wash.:
 On sick leave with pay.
 Thursday, April 22, 1909, Seattle, Wash.:
 On sick leave with pay.
 Friday, Apr. 23, 1909, Seattle, Wash.:
 On sick leave with pay.
 Saturday, Apr. 24, 1909, Seattle, Wash.:
 On sick leave with pay.
 Sunday, Apr. 25, 1909, Seattle, Wash.:
 On sick leave with pay.
 Monday, Apr. 26, 1909, Seattle, Wash.:
 On sick leave with pay. Paid for Postal Teleg. Co. for telegram from Mr. Glavis, chief, .20; paid Western Un. Teleg. Co. for telegram to Mr. Glavis, chief, .36; paid Westn. Un. Teleg. Co. for telegram to Mr. Glavis, chief, .38; paid Westn. Un. Teleg. Co. for telegram from Mr. Brooke, coal ex., .25.
 Tuesday, Apr. 27, 1909, Seattle, Wash.:
 On sick leave with pay.
 Wednesday, Apr. 28, 1909, Seattle, Wash.:
 On sick leave with pay. Paid Westn Un. Telg. message to Mr. Brooke, coal ex., \$0.20.
 Thursday, Apr. 29, 1909, Seattle, Wash.:
 Reported for duty at 9 a. m., after a sick leave. Prepared list of cases for field ex. and instructed new temporary coal ex. Geo. A. Brooke, preparatory to his making a field trip.
 Friday, Apr. 30, 1909, Seattle, Wash.:
 Checking and signing reports dictated while in Portland division. Preparing list of cases for Agent Raymond E. Gery, for field ex. Paid Postl Telg. for telegram from Christiansen, chief, \$0.25; paid W. U. Teleg. for telegram to Christiansen, chief, \$0.24; Paid W. U. Teleg. for telegram to Glavis, chief, \$0.49. Issued T. R. 17962 to G. N. Ry. ticket Seattle to Chicago, \$56.90; issued T. R. 17963 to G. N. Ry., berth, Seattle to St. Paul, \$12.00.

Daily reports, May, 1909.

[All signed "Andrew Kennedy, special agent."]

Saturday, May 1, 1909, Seattle and en route:
 Checking and signing reports dictated when at Portland office. Pd. Post. Tel. Co. for telegram from Christiansen, chief, .20; Pd. W. U. Tel. Co. for telegram to Christiansen, chief, .24. At 9.30 p. m., Lv. Seattle via G. N. Ry. for Chicago. At Seattle, paid Seattle Transf. Co., trunk hotel to depot, .50; at Seattle, bus fare hotel to depot, .25. At 9.30 p. m., Lv. Seattle, Wn., via G. N. Ry., for Chicago.
 Sunday, May 2, 1909, en route Seattle to Chicago:
 En route G. N. Ry., Seattle, Wn., to Chicago, Ill.
 Monday, May 3, 1909, en route Seattle to Chicago:
 En route G. N. Ry., Seattle, Wn., to Chicago, Ill.

Tuesday, May 4, 1909, en route Seattle to Chicago:

En route Seattle to Chicago via G. N. Ry. Ar. at St. Paul 2.30 p. m. Paid porter fee en route Seattle to St. Paul, Minn., .75; paid C. M. & St. P. Ry. Co. one 1st class berth St. Paul, Minn., to Chicago, Ill., \$2.00; at St. Paul paid checking suit case, .10. At 8.25 p. m., Lv. St. Paul via C. M. & St. P. Ry. for Chicago.

Wednesday, May 5, 1909, Chicago, Ill.:

Paid porter fee en route St. Paul to Chicago, Ill., .25; Ar. in Chicago at 9 a. m. Paid Parmalee Transfer Co. for self and baggage depot to hotel, .75. Locating addresses of persons in re Alaska coal cases.

Thursday, May 6, 1909, Chicago, Ill.:

Locating addresses of persons in re Alaska coal cases. Secured affidavit of Chas. T. Luckow in re Alaska coal cases. In Chicago, paid 4 street car fares, at 5c. each, .20.

Friday, May 7, 1909, Chicago, Ill.:

Secured affidavits of Chas. F. Stone, Peter A. Schriver, and Toney Beggio in re Alaska coal cases. In Chicago, paid 7 street car fares, at 5c. each, .35.

Saturday, May 8, 1909, Chicago, Ill.:

Secured affidavits of Jessie L. Quesenberry, Joseph J. O. Grady, and C. P. Lyon for himself and wife in re Alaska coal cases. In Chicago, paid 5 street car fares and two phone messages, 7 at 5c. each, .35.

Sunday, May 9, 1909, Chicago, Ill., Sunday.

Monday, May 10, 1909, Chicago, Ill.:

Made effort to-day interviewing H. S. Oakley, Wm. C. Cook, H. Wollensberger, H. M. Finley, to secure affidavits in re Alaska coal cases. Said they must consult agents or attorneys. In Chicago, paid 5 street car fares, at 5c. each, .25.

Tuesday, May 11, 1909, Chicago, Ill.:

Secured affidavits of Chas. B. Wood, H. S. Oakley, F. R. Thompson, H. Wollensberger, H. M. Finley, Fayette F. Munroe, and Harry Mussen in re Alaska coal cases. In Chicago, paid 6 street car fares, at 5c. each, .30.

Wednesday, May 12, 1909, Chicago, Ill.:

Secured affidavits of J. P. Turpin, Wm. C. Cook, of Geo. M. Seward, for his wife. L. F.; A. L. Drum, Geo. M. Seward, and W. S. Wandtke in re Alaska coal cases. In Chicago pd. 4 street-car fares, at 5c each, \$0.20; pd. Wabash Ry. Co. on vr. one for baggage of Agent Stoner Bowman, Chief Glavis, and self. Hotel to depot, 4 trucks. at 50c. each, \$2.00; at 11 p. m. lv. Chicago for Detroit, Mich., via Wabash Ry. on transportation and berth furnished by Chief Glavis. Pd. in Chicago cab fare, hotel to depot, \$0.50.

Thursday, May 13, 1909, Detroit, Mich.:

Pd. porter fee en route Chic., Ill., to Detroit, Mich., .25. Ar. at Detroit, Mich. 7.30 a. m. Secured affidavits of Nelson B. St. John and Hal B. Stephens in re Alaska coal cases.

Friday, May 14, 1909, Detroit, Mich.:

Registering letter to Wm. D. Hanna, clerk, at Seattle, Wash., .08; spent the day with Mr. Glavis, chief, locating and interviewing Messrs. Roem and Paton, secy. & treas. of co. in Alaska in re coal cases. Worked until 12 m., comparing papers type-written this day. At Detroit paid 4 street-car fares, at 5c. each and one phone message, at 5c., .25.

Saturday, May 15, 1909, Detroit, Mich., & en route:

Assisted typewriter copying papers. Assisted Chief L. R. Glavis in securing affidavits of Albert M. Roem, Arthur Homes, H. W. Paton, Frank Andres, N. L. McBean, Geo. W. Ross, M. J. Thiems, and J. W. Drake in re Alaska coal cases. At Detroit paid 5 street-car fares, at 5c. each, two phone messages, at 5 each (7), at 5c., .35; at Detroit pd. Cadillac Hotel for baggage, depot to hotel, 3 pieces, .95; at Detroit, bus fare, hotel to depot, .25; at Detroit, baggage, hotel to depot (1) piece, .35; at Detroit, Pullman Co. berth, Detroit to Pittsburg, Pa., \$2.00. At Detroit, issued to Michigan Central Ry. T. R. 17964 for ticket for myself, Detroit, Mich., to Pittsburg, Pa., fare, \$6.35, and for L. R. Glavis, chief, T. R. 17965 for ticket, Detroit, Mich., to Washington, D. C., fare, \$14.25. At 8.05 p. m. lv. Detroit, Mich., for Pittsburg, Pa., via Mich. Ctrl. & P. R.

Sunday, May 16, 1909, Pittsburg, Pa.:

Paid porter en route Detroit to Pittsburg, Pa., \$.25; Ar. Pittsburg, Pa., 7.05 a. m. Made effort to interview John A. Steele in re Alaska coal cases. Learned he is in Tulsa, Oklahoma. At Pittsburg, Pa., paid for two phone messages, 10c. each, \$.20. At Pittsburg, Pa., paid (4) street-car fares, at 5c. each, \$.20. At Pittsburg, Pa., to Penna. R. R. issued T. R. 17966 for ticket, Pittsburg to Wilkes-Barre, Pa., \$7.54.

Monday, May 17, 1909, Pittsburg, Pa.:

On leave of absence with pay.

Tuesday, May 18, 1909, Pittsburg, Pa.:

On leave of absence with pay.

Wednesday, May 19, 1909, Pittsburg, Pa., and Wilkes-Barre, Pa.:
After leave of absence began duty at 8 a. m. At 8 a. m. lv. Pittsburg, Pa., for Wilkes-Barre, Pa., via Penna. R. R.; ar. at Wilkes-Barre at 6 p. m. Paid for seat Pittsburg to Lewistown Junction, .95; paid porter fee en route Pittsburg to Lewistown, Pa., .10.

Thursday, May 20, 1909, Wilkes-Barre, Pa.:
Spent the day investigating standing of coal claimants in Wilkes-Barre, Pa. Secured affidavits of Francis Douglas and Ed. W. Davis in re Alaska coal cases. Pd. W. U. Teleg. Co. for telegram to L. R. Glavis, chief, from Wilkes-Barre, Pa., to Washington, D. C., 27 words, .27; pd. Laurel Line Ry. Co. fare Wilkes-Barre to Scranton, Pa., .30.

Friday, May 21, 1909, Scranton, Pa., Washington, D. C.:
Issued to D. L. & W. Ry. Co. T. R. 17967 from Scranton, Pa., to Washington, D. C.; fare, \$6.25. At 10.20 a. m. lv. Scranton, Pa., ar. at Washington, D. C., 8.15 p. m., via D. L. & W. and Penna. R. R. Pd. Pullman Co. for seat Scranton, Pa., to Stroudsburg, 30c.; Phila. to Washington, D. C., 75c.; total, \$1.05; fee to porter en route Scranton, Pa., to Washington, D. C., .25.

Saturday, May 22, 1909, Washington, D. C.:
Consulting with Mr. Glavis, chief of field division, in re Alaska coal cases.

Sunday, May 23, 1909, Washington, D. C.:

Sunday.

Monday, May 24, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief of field division, with papers in re Alaska coal cases.

Tuesday, May 25, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief field division, with papers in re Alaska coal cases.

Wednesday, May 26, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief field division, with papers in re Alaska coal cases.

Thursday, May 27, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief of field division, with papers in re Alaska coal cases.

Friday, May 28, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief of field division, with papers in re Alaska coal cases.

Saturday, May 29, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief of field division, with papers in re Alaska coal cases.

Sunday, May 30, 1909, Washington, D. C.:

Sunday.

Monday, May 31, 1909, Washington, D. C.:

Holiday.

Daily reports, June, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Tuesday, June 1, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief field division, with papers in re Alaska coal cases.

Wednesday, June 2, 1909, Washington, D. C.:

Assisting Mr. Glavis, chief field division, with papers in re Alaska coal cases.

Thursday, June 3, 1909, Washington, D. C., and en route:

Three phone messages, at 5c. each, at Wash., D. C., \$.15; two street car fares, at 5c. each, at Wash., D. C., \$.10; two trunk straps (for trunk with gov. papers), Wash., D. C., \$.50; cartage on trunk depot to hotel, and hotel to depot, Wash., D. C., \$.50; cartage on trunk, land office to depot, at Wash., D. C., \$.50; Pullman Co. sleeper, Wash., D. C., to N. Y., at Wash., D. C., \$2.00; cab, hotel to depot, at Wash., D. C., \$.35; excess on baggage, Wash., D. C., to N. Y. (P. R. R.), at Wash., D. C., \$.80; to P. R. R., T. R. 17968, two tickets, Wash., D. C., to N. Y. C., at Wash., D. C., \$11.30; carried E. L. Glavis, chief. At 12.30 a. m. lv. Wash., D. C., via P. R. R.

Friday, June 4, 1909, New York, N. Y.:

Porter fee, on sleeper, \$.25. Ar. N. Y. at 7.30 a. m. Baggage, depot to hotel, New York, \$.50; cab, depot to hotel, New York, \$.50. Locating and learning social and financial standing of claimants in re Alaska coal entries.

Saturday, June 5, 1909, New York, N. Y.:

With L. R. Glavis, chief, secured affidavit of Carter W. Caleb. Located and went to address of Porter L. Howe; learned he is now in Los Angeles. All in re Alaska coal entries.

Sunday, June 6, 1909, New York, N. Y., Sunday.

Wednesday, June 9, 1909, Boston, Mass.; Warren, Maine:

Located residence of F. B. Perry, at Allston; not at home. Located Helen M. Fitch, now Mrs. Philbrick, of Spokane, Wash. Three phone messages at 5c. each, at Boston, Mass., \$.15; 2 street-car fares, at 5c. each, at Boston, Mass., \$.10; cab, hotel to depot, at Boston, Mass., \$.50; seat in chair car, Boston to Brunswick, Me., \$.75; fee to porter,

chair car, \$.25. At 1.15 p. m. lv. Boston; ar. Warren, Me., 8.25 p. m. Phone message from depot at Warren to Union, Me., \$.10.

Monday, June 7, 1909, New York, N. Y., and Bridgeport, Conn.:

Secured affidavit of Edgar Allen (colored). Located and went to residence of A. S. McDougal; he was out of the city. 7 phone messages, at 10c each, from Albany Hotel in N. Y., \$.70. 8 street car fares in New York, at 5c each, .40. All in re Alaska coal entries. To N. Y. N., H. & H., T. R. 17969, ticket N. Y. to Warren, Maine, and ret., \$17.80. Cab hotel to depot at New York, .50. At 6 p. m. lv. N. Y., ar. at Bridgeport, Conn., 7.40 p. m. (using stop-over on ticket). Seat in Pullman N. Y. to Bridgeport, Conn., .50. Cab depot to hotel at Bridgeport, Conn., \$.25; two street car fares, at 5c each, at Bridgeport, Conn., \$.10. Called on Joseph C. Mayher at Bridgeport; not at home.

Tuesday, June 8, 1909, Bridgeport, Conn., Winstead, Conn., & Boston, Mass.:

Called at residence of Joseph C. Mayher; not at home. N. Y., N. H. & H. for ticket Bridgeport to Winstead, Conn., & return, \$2.50. At 9.35 a. m. lv. Bridgeport; ar. Winstead, Conn., 11.55 a. m. Checking suit case at parcel check room at Winstead, Conn., .10. Carriage depot to suburbs & return to depot at Winstead, Conn., \$.50. Secured affidavits of Addie N., Nancy M., and Frank E. Dickerman in re Alaska coal entries. At 1.45 p. m. lv. Winstead; ar. at Bridgeport, Conn., 3.55 p. m. Called at residence of Joseph C. Mayher; not at home. Five street car fares, at 5c each, at Bridgeport, Conn., .25. At 6.30 p. m. lv. Bridgeport, Conn.; ar. at Boston, Mass., 11 p. m. Paid for seat in chair car Bdgpt. to Boston, \$1.00; fee to porter on chair car, .25; cab depot to hotel in Boston, Mass., .50.

Thursday, June 10, 1909, Warren & Union, Me., & Boston, Mass.:

At 5 a. m. lv. Warren, Me., via horse, buggy, and driver for country, rig returning without me. Secured statement of Emile Thurston; would not sign. On lv. I paid L. D. Gamage, of Warren, Me., hire of horse, buggy, and driver, Warren to country, rig returning without me, the trip, \$2.00. At 7.35 a. m. lv. Union, Me. Arrive at Warren, Me., at 8.15 a. m. Georgeas Valley R. R. fare Union to Warren, Me., .40. At 8.30 a. m. lv. Warren, Me. Ar. at Boston, Mass., at 3.50 p. m. Seat in chair car Brunswick, Me., to Boston, Mass., .75; fee to porter on chair car, .25; cab depot to hotel at Boston, Mass., .50; 3 phone messages, at 5c each, at Boston, Mass., .15; 4 street car fares, 5c each, at Boston, Mass., .20. Secured affidavit of Frank B. Perry at 10.30 p. m. All in re Alaska coal entries.

Friday, June 11th, 1909, Boston, Mass., Bridgeport, Conn., and New York, N. Y.:

Cab fare hotel to depot at Boston, Mass., \$.50. At 10 a. m. lv. Boston. Ar. at Bridgeport, Conn., at 2.30 p. m. Seat in chair car Boston to Bridgeport, Conn., \$1.00; fee to porter on chair car, .25; 6 street car fares, at 5c each, at Bridgeport, Conn., .30; 3 phone messages, 5c each, at Bridgeport, Conn., .15. Called at homes of Josephine Mayher, Mrs. Perry, John Crossley, and Judge Wheeler in re Alaska coal cases. Miss Mayher has a coal entry. Mrs. Perry has stock in a coal co. Both were noncommittal until receiving advice from attorneys. Am to meet attorneys Saturday. Worked until 9.30 p. m.

Saturday, June 12, 1909, Bridgeport, Conn.:

4 phone messages, at 5c. each, at Bridgeport, Conn., \$.20; 1 phone message from Stratfield Hotel, Bridgeport to N. Y. to locate Frank Gould in Alaska coal entry. .40. Intv. Judge Wheeler, Judge Foster, and John Crossley. Judge Wheeler refused to give statement as to Mrs. Perry. Judge Foster had no information; Mr. Crossley would not give decision until Monday (Green group). At 3 p. m. lv. Bridgeport; ar. Rye, N. Y. 4.20 p. m. Went to residence of A. E. Dickerman, in suburb; not at home. On Vr. 2 send Billington Bros., Rye, N. Y., for hire horse, buggy, and driver from Rye, N. Y., to country and return, the trip, \$1.00. At 6.20 p. m. lv. Rye, N. Y., ar. in New York City 7.30 p. m. Cab, depot to hotel, in New York, .50. Went to residence of Dr. McDougal in Brooklyn, N. Y. He was not at home. 4 street-car fares in N. Y. at 5c. each, .20. Returned to hotel at 10 p. m.

Sunday, June 13, 1909, Coney Island, N. Y., New York, N. Y.:

Secured affidavits of Allen E. Dickerman and Dr. A. S. McDougal in re Alaska coal entries. One phone message at 10c. in New York, \$.10. 8 street-car fares at 5c. each, in New York, .40. To P. R. R. T. R. 17970, N. Y. to Philadelphia, Pa., and return fare, \$4.00. Pullman Co., for berth, New York to Philadelphia, Pa., \$1.50. At 10.30 p. m. Lv. New York for Philadelphia. To D. L. & W. Co., T. R. 17971 N. Y. to Wilkes-Barre, Pa., not returning, \$3.65. Cab, hotel to depot, in New York, .50.

Monday, June 14, 1909, Phila., Pa., and New York, N. Y.:

Ar. at Phila., Pa., 7 a. m., fee to porter en route, \$.25; 6 street-car fares at 5c. each in Phila., Pa., .30. Secured affidavit of Frank Gould, Alaska cases. At 10.40 a. m. lv. Phila., Pa., ar. in N. Y. 12.50, noon. On Vr. 3 paid Broadway Ctl. hotel for phone

message, N. Y., to John Crossley in Bridgeport, Conn., \$1.10. Intv. Arthur Wyman and Francis Wilson in re Alaska entries; have appointment for Tuesday. 2 phone messages at 10c. each in New York, 20; 7 car fares at 5c. each in New York, .35.

Tuesday, June 15, 1909, New York, N. Y., and en route to Wilkes-Barre, Pa.:

Intv. Francis Wilson, atty. for Josephine Mayher. Ex. letters, etc., he will have copies made and mail. Intv. Arthur Wyman, outlined affidavit; he will mail it. Pullman Co., berth, N. Y. to Wilkes-Barre, Pa., \$1.50; 5 phone messages at 10c. each in New York, .50; 7 street-car fares at 5c. each, in New York, .35; cab, hotel to depot, in New York, .50; at 10.30 p. m. lv. N. Y. for Wilkes-Barre, Pa.

Wednesday, June 16, 1909, Wilkes-Barre, Pa.:

Ar. at Wilkes-Barre, Pa., at 8 a. m. Paid porter on sleeper, \$.25. Secured afft. John Kachenback, John C. Weigard, and Geo. R. McLarin. Intv. F. K. Slegmarer and Henry Schultz; they state Mr. McLarin would make statement for them, in re Alaska coal cases.

Thursday, June 17, 1909, Wilkes-Barre, Pa.:

On leave of absence with pay. Received by mail affidavit of Arthur Wyman in re Alaska coal cases. Wrote him letter of acknowledgment.

Friday, June 18, 1909, Wilkes-Barre, Pa.:

On leave absence with pay.

Saturday, June 19, 1909, Wilkes-Barre, Pa.:

On leave absence with pay. Received letters from Francis H. Wilson, of New York, in re coal entry of Josephine Mayher coal entry. Recd. telegram from L. R. Glavis, chief.

Sunday, June 20, 1909, Wilkes-Barre, Pa.:

Sunday. On leave absence with pay.

Monday, June 21, 1909, Wilkes-Barre, Pa.:

On leave absence with pay. Pd. W. U. Co. telegram Old Forge, Pa., to Seattle, Wash., to Mr. Glavis, chief, 28 words, \$.56. Pd. W. U. Co. telegram from Seattle to Old Forge, Pa., from Mr. Glavis, chief, 19 words, .40. On Vr. 4 paid Frances H. Wilson, 42 Broadway, N. Y., stenography work, copying papers in re Alaska coal entries, the job, 4.90.

Tuesday, June 22, 1909, Wilkes-Barre, Pa., Scranton, Pa.

On leave absence with pay. W. U. Co. telegram Old Forge, Pa., to Seattle, Wash.; to Mr. Glavis, chief, 32 words, .64. Received letters from John Crossley, of Bridgeport, Conn., in re Josephine Mayher coal entry.

Wednesday, June 23, 1909, Wilkes-Barre, Pa.:

At 9 a. m. reported for duty, after leave absence. Investigated Alaska coal claimants. At 2.25 p. m. lv. Wilkes-Barre, Pa.; ar. at Scranton, Pa., 3 p. m. Pd. Laurel Line R. R. Co. fare Wilkes-Barre to Scranton, Pa., \$0.30. To D. L. & W. R. R. T. R. 17972 for ticket Scranton, Pa., to Portland, Ore., fare \$73.40. Destination Seattle, fare no extra—may use other portion on official business before time expires. Pullman Co. 1st class berth Scranton, Pa., to Chicago, Ill., \$4.50. Parcel checking suit case at Scranton, Pa., \$.10. At 6.45 p. m. lv. Scranton, Pa., via D. L. & W. R. R. for Seattle, Wn.

Thursday, June 24, 1909, Chicago and en route Seattle:

Fee to porter on sleeper, \$.25. Ar. Chicago, Ill., at 6 p. m. At 6.40 p. m. lv. Chicago via C. M. & St. P. Paid C. M. & St. Paul R. R. berth Chicago to St. Paul, \$2.00.

Friday, June 25, 1909, St. Paul & en route to Seattle:

Fee to porter on sleeper, \$.25. Ar. St. Paul, Minn., 7.30 a. m. At St. Paul to Pullman Co. T. R. 17973 berth St. Paul to Portland, Ore., \$12.00. At 11 a. m. leave St. Paul for Seattle via N. P. Ry.

Saturday, June 26, 1909, en route to Seattle, N. P. Ry.:

Fee to porter on sleeper, \$.25.

Sunday, June 27, 1909, en route to Seattle, N. P. Ry.:

Fee to porter on sleeper, \$.25. Arrive in Seattle, Wn., 8.15 p. m. Bus fare depot to hotel, Seattle, Wn., \$.25.

Monday, June 28, 1909, Seattle, Wn.:

In office working on Alaska coal reports. Cartage on trunk depot to hotel, Seattle, Wn., \$.50.

Tuesday, June 29, 1909, Seattle, Wn.:

In office working on Alaska coal reports.

Wednesday, June 30, 1909, Seattle, Wn.:

In office working on Alaska coal reports. Secured affidavit of M. A. Arnold in re Alaska coal entries. Baggage hotel to depot in Seattle, Wn., \$.50; at 10.20 p. m. lv. Seattle, Wn., for Portland, Ore., via N. P. Ry.

Daily reports July, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Thursday, the 1st day of July, 1909, Portland, Ore.:

Fee to porter, 25c.; buss fare, 25c.; baggage to hotel, 50c. Ar. Portland 8 a. m. Secured affidavit Sara J. Swartz. Intv. postmaster and locating claimants all in re Alaska coal entries. Ret. request book 1319; requests unused 17974 to 17977.

Friday, the 2d day of July, 1909, Portland, Ore., and Vancouver, Wn.:

Postal Co., telegram, 20c.; car fare Portland, 4 @ 5, 20c.; Portland Ry. Co. fare Portland to Vancouver and return, 35c. Spent the day going from one address to another locating Wesley and Sarah Lindsay in re Alaska coal entries. At 4 p. m. Lv. Portland, ar. Vancouver, Wn., 4.40 p. m.

Saturday, the 3d day of July, 1909, Vancouver, Wn.:

Ex. tract books at Vancouver, Wn., land office.

Sunday, the 4th day of July, 1909, Vancouver, Wn., Sunday.

Monday, the 5th day of July, 1909, Vancouver, Wn. & Portland, Ore.:

At Portland, bag. hotel to depot, 50c.; Pullman sleeper, Portland to Seattle, \$2.00 To N. P. Ry. T. R. 17413, Portland, Ore., to Seattle, Wn., fare, \$5.60. *Holiday.* Ar. Portland, 2 p. m.

Tuesday, the 6th day of July, 1909, Seattle, Wn.:

Fee to porter on sleeper, 25c.; baggage, depot to hotel at Seattle, 75c. (trunk and suit case). At 12 a. m. Lv. Portland N. P. Ry., ar. Seattle, 11 a. m. (train late). Worked in office on Alaska coal reports.

Wednesday, the 7th day of July, 1909, Seattle, Wn.:

Working in office on Alaska Coal reports.

Thursday, the 8th day of July, 1909, Seattle and Hoquiam, Wn.:

To N. P. Ry. T. R. 17414 ticket Seattle, Wn., to Hoquiam, Wn., and return fare, \$8.18. At 8 a. m. Lv. for Hoquiam, Wn. Ar. at Hoquiam 4.20 p. m. Secured affidavit of Horace Davenport in re Alaska Coal entries.

Friday, the 9th day of July, 1909, Hoquiam and Seattle, Wn.:

En route Hoquiam, Wn., to Seattle, Wn., at 8.10 a. m. Lv. Hoquiam. Ar. Seattle, Wn., 4 p. m.

Saturday, the 10 day of July, 1909, Seattle, Wn.:

Working in office on Alaska Coal reports.

Sunday, the 11th day of July, 1909, Seattle, Wn., Sunday.

Monday, the 12th day of July, 1909, Seattle, Wn.:

Working in office on Alaska Coal reports.

Tuesday, the 13th day of July, 1909, Seattle, Wn.:

Recd by mail affidavit of Horace Davenport re Alaska Coal. Working in office on Alaska Coal reports. Made report to chief on stock purchased by Mrs. Pavy.

Wednesday, the 14 day of July, 1909, Seattle, Wn.:

Working in the office on Alaska coal reports.

Thursday, the 15 day of July, 1909, Seattle, Wn.:

Working in the office on Alaska coal reports:

Friday, the 16 day of July, 1909, Seattle, Wn., and en route:

H. Imhoof, bagg. man, cartage on baggage, hotel to wharf, 75c., at Seattle, Wn. Working in office on Alaska coal reports. At 8 p. m. lv. Seattle, Wn., on steamer *Portland* for Alaska on transportation furnished by Agent Stoner.

Saturday, the 17 day of July, 1909, en route to Alaska, steamer *Portland*:Fee to purser, 25c. On steamer *Portland* en route to Katalla, Alaska.Sunday, the 18 day of July, 1909, on steamer *Portland*:

Fee to purser, 25c. On steamer *Portland* en route to Katalla, Alaska. Secured affidavit F. A. Morrow in re 6 Alaska coal entries.

Monday, the 19 day of July, 1909, on steamer *Portland*:Fee to purser 25c. On steamer *Portland* en route to Katalla, Alaska.Tuesday, the 20 day of July, 1909, on steamer *Portland*:

Fee to purser, 25c. On steamer *Portland* en route to Katalla, Alaska. Secured affidavit of J. F. Ballain in re Watson group, Alaska coal entries.

Wednesday, the 21 day of July, 1909, on steamer *Portland*:Fee to purser, 25c. On steamer *Portland* en route to Katalla, Alaska.Thursday, the 22 day of July, 1909, on steamer *Portland*:

Fee to purser, 25c. To T. J. Lawe, Katalla, vr. 1, lighterage for self, steamer to wharf at Katalla, \$2.00. On steamer *Portland* en route to Katalla, Alaska. Ar. at Katalla, Alaska, 3 p. m.

Friday, the 23 day of July, 1909, Katalla, Alaska:

Paid Torger Feed, of Katalla, Alaska, lighterage for baggage from steamer *Portland* to wharf, 65c. Securing outfit and conveyance at Katalla to get to coal fields.

Saturday, the 24 day of July, 1909, Katalla, Alaska, and coal fields:

At 3 a. m. lv. Katalla, Alaska, on launch of Wm. Crooker, ar. at coal fields at 6 p. m.

Sunday, the 25 day of July, 1909, Alaska coal fields, Green & Cunningham camp: Vr. 2 to Wm. Crooker for transportation of Stoner, myself, and camp outfit, Katalla to Stillwater, Green's coal camp, \$25.00. Ex. scrip entries 926 & 927, M. A. Green, and 928, Harry White. At 2 p. M. lv. Green's coal camp, ar. at Cunningham camp 6 p. m.

Monday, the 26 day of July, 1909, Cunningham coal camp:

Jas. McGrath, a guide, \$4.00, one day. Examined 13 coal croppings on Cunningham group, averaging 10 claims.

Tuesday, the 27 day of July, 1909, Cunningham coal camp, Alaska:

James McGrath, guide, \$4.00, one day. Examined 18 coal croppings on Cunningham coal group, avg. 12 claims ex.

Wednesday, the 28 day of July, 1909, Cunningham coal camp:

Jas. McGrath, guide, \$4.00, one day. Ex. 4 croppings on, and proposed tunnel site for the mining of the coal of Cunningham group.

Thursday, the 29 day of July, 1909, Cunningham coal camp, Alaska:

Jas. McGrath, guide, 1 day, \$4.00. Ex. 32 croppings on Cunningham group. Average, 7 claims examined.

Friday, the 30 day of July, 1909, Cunningham & Chezum coal camps, Alaska:

Jas. McGrath, guide, 1 day, \$4.00. Examined 12 coal croppings on Cunningham and Chezum groups. Average, 4 claims examined.

Saturday, the 31 day of July, 1909, Chezum & Cunningham coal camps, Alaska:

Jas. McGrath, guide, 1 day, \$4.00. Jas. McGrath, 2-3, services guide, July 26 to 31, inclusive, 6 days, at \$4.00 per day, \$24.00. Examined 16 coal croppings on Chezum and Hartline groups. Average claims ex., 7 Chezum, 7 on Hartline.

Daily reports, August, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Sunday, the 1st day of August, 1909, Cunningham & Green coal camp, Alaska:

Peechuck (Indian), packer, 1 day, \$3.00, board to be paid in addition to this. Moving camp from Cunningham to Green's Stillwater camp.

Monday, the 2nd day of August, 1909, Green's & Hunt's coal camp, Alaska:

Peechuck (Indian packer), 1 day, \$3.00, board to be paid in addition to this. Ex. 9 coal claims in Hartline group. Secured affidavit of John W. Hartline in re Hartline group Alaska coal cases.

Tuesday, the 3d day of August, 1909, Hunt's and Green's Happy Hollow coal camps, Alaska:

Peechuck (packer), 1 day, \$3.00, board to be paid in addition. Paul Lucchini, guide, 1 day, \$— per day. Examined 12 coal claims on Hunt group of Alaska coal entries.

Wednesday, the 4 day of August, 1909, Green's Happy Hollow coal camp:

Peechuck (Indian packer), 1 day, \$3.00, board to be paid in addition. Walter Edkins, guide, 1 day, \$— per day. Ex. 20 coal claims of Green group Alaska coal entries.

Thursday, the 5 day of August, 1909, Green's Happy Hollow & Sheep Creek coal camp, Alaska:

Peechuck (Indian packer), 1 day, \$3.00, board to be paid in addition. Walter Edkins, guide, 1 day, at \$— per day. Ex. 26 coal claims on Green group Alaska coal cases.

Friday, the 6th day of August, 1909, Greens Sheep Creek Coal Camp, Alaska:

Peechuck (Indian packer) 1 day \$3, board to be paid in addition. Walter Edkins, guide, 1 day, at \$— per day. Located Greens Happy-hollow and Sheep Creek Coal Camps. Ex. 5 coal entries Green group, Alaska coal entries.

Saturday, the 7 day of August, 1909, Greens Sheep Creek Coal Camp, Alaska:

Peechuck (Indian packer), 1 day \$3, board to be paid in addition. Walter Edkins, guide, 1 day, at \$— per day. Examined 35 coal entries of Doughton group. Took affidavit of Walter Edkins on Doughton group.

Sunday, the 8 day of August, 1909, Greens Sheep Creek & Happy Hollow Coal Camp, Alaska:

Peechuck (Indian packer) 1 day \$3, board to be paid in addition. Walter Edkins, guide, 1 day \$— per day. Ex. 17 coal claims Green group. Ex. 14 coal claims Morrow group.

Monday, the 9 day of August, 1909, Happy Hollow and Hunts Coal Camp, Alaska:

Peechuck, Indian packer, 1 day \$3, board to be paid in addition. On Vr. 1. Paul Lucchini, guide, 1 day Aug. 3d, \$4.25. Ex. 10 coal claims of Willoughby group. Ex. 4 coal claims of Rathbone group.

Tuesday, the 10 day of August, 1909, Hunts Coal Camp, Alaska:

Peechuck, Indian packer, 1 day \$3, board to be paid in addition. Lake in Martin Glacier broke out, raised water in Canyon Creek several feet, floating trees, logs, and ice, making it impossible to cross it. The next work being at Stacey Camp on opposite side of creek.

Wednesday, the 11 day of August, 1909, Hunter & Clearwater Coal Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3.00, board to be paid in addition. Lake in Martin Glacier broke out, raising water in Canyon Creek several feet, floating trees, logs, & ice, making it impossible to cross it. The next work being on Stracy group on opposite side of creek, borrowed a boat, got across river, and camped at Stillwater camp for night.

Thursday, the 12 day of August, 1909, Stillwater and Stracy Coal Camps:

Peechuck, Indian packer, 1 day, \$3.00, board to be paid in addition. En route from Stillwater Coal Camp to Stracy Coal Camp. Time consumed 6 hours. Ex. 6 coal claims on Christopher group, Alaska.

Friday, the 13 day of August, 1909, Carbon Camp of Stracy Group, Alaska:

Peechuck, Indian packer, 1 day, \$3.00, board to be paid in addition. G. F. McDonald, guide, 1 day, \$5.00. Examined 8 coal claims Smokeless Coal Co., McDonald's. Examined 6 coal claims, Rathburn, agent. Examined 10 coal claims, Geo. McLain or Willoughby, agt.

Saturday, the 14 day of August, 1909, Carbon camp of Stracy group, Alaska:

Peechuck, Indian packer, 1 day, \$3.00, board to be paid in addition. Geo. Priest, guide, 1 day, \$— Examined 6 coal claims on Stracy group, Alaska coal entries. Land very brushy, difficult to get around.

Sunday, the 15 day of August, 1909, Carbon coal camp of Stracy group, Alaska:

Peechuck, Indian packer, 1 day, \$3.00, board to be paid in addition. Geo. Priest, guide, one day, \$— Ex. 7 coal claims, Stracy group, Alaska coal entries. Land very brushy, difficult to get around.

Monday, the 16 day of August, 1909, Carbon and Kushtuka Coal Camp, Stracy Group, Alaska:

Peechuck (Indian packer), 1 day, \$3, board to be paid in addition. Geo. N. Priest, guide, 1 day, \$— Ex. 6 coal claims, Stracy group Alaska Coal entries. Land brushy, difficult to get around.

Tuesday, the 17 day of August, 1909, Kushtuka Camp, Stracy Group, Alaska:

Peechuck, Indian packer, 1 day, \$3, board to be paid in addition. Geo. N. Priest, guide, 1 day. Ex. 6 coal claims Stracy group, Alaska coal entries. Land brushy, difficult to get around.

Wednesday, the 18 day of August, 1909, Stracy, Kushtuka, & Cunningham Coal Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3, board to be paid in addition. Board paid by forest office. Reexamination of Cunningham Alaska Coal group. Cooperation with Forest Supervisor W. A. Lavgell and Coal Expert Gabriel Wingate, of Forest Service.

Thursday, the 19 day of August, 1909, Cunningham Coal Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3, board to be paid in addition. Indian board paid by forest officer. Reexamination of Cunningham Alaska Coal Group. Cooperating with Forest Supervisor W. A. Lavgell and Coal Expert Gabriel Wingate, of Forest Service.

Friday, the 20 day of August, 1909, Cunningham Coal Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3, board to be paid in addition. Indian board paid by forest officer. Reexamination of Cunningham Alaska coal group. Cooperating with Forest Supervisor W. A. Lavgell and Coal Expert Gabriel Wingate, of Forest Service.

Saturday, the 21 day of August, 1909, Cunningham Camp & Carbon Coal Camp. Stracy group, Alaska:

Peechuck, Indian packer, 1 day, \$3, board to be paid in addition. Geo. N. Priest, guide, 1 day. Ex. 7 coal entries in Stracy group, Alaska coal entries.

Sunday, the 22 day of August, 1909, Carbon Camp, Stracy & McDonald Coal Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3, board to be paid in addition. Geo. N. Priest, guide, 1 day, \$— Ex. 6 coal entries in Stracy group, Alaska coal entries. Ex. 1 coal claim, Arthur Stracy, now P. Purdy.

Monday, the 23 day of August, 1909, McDonalds Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3, board to be paid in addition. L. A. Thurston, guide, 1 day, \$5.00, board included. Ex. 4 coal claims, McDonald group. Ex. 1 coal claim, L. A. Thurston. Ex. 1 coal claim, M. A. Arnold. Ex. 1 coal claim Andrew N. Prather.

Tuesday, the 24 day of August, 1909, McDonald Coal Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3.00, board to be paid in addition. Gideon F. McDonald, guide, 1 day, \$5.00, board inc. Ex. 6 coal claims, McDonald group, Alaska coal entries.

Wednesday, the 25 day of August, 1909, McDonalds Coal Camp, Alaska:

Peechuck, Indian packer, 1 day, \$3.00, board to be paid in addition. G. F. McDonald, guide, 1 day, \$5.00, board inc. Ex. 7 coal claims, McDonald group, Alaska entries.

Thursday, the 26th day of August, 1909, McDonalds Coal Camp, Alaska:

Peechuck packer, 1 day, \$3.00, board to be paid in addition. La Thurston, guide, 1 day, \$5.00, board included. Vr. 2 Peechuck packer, Aug. 1 to 26, inc., 26 @ \$3.00, \$78.00. Ex. 16 coal claims, Christopher group, Alaska Coal entries.

Friday, the 27 day of August, 1909, McDonalds Coal Camp, Alaska:

L. A. Thurston, guide, 1 day, \$5.00, board included. G. F. McDonald, packer, 1 day, \$5.00, board inc. Ex. 14 coal claims Christopher group, Alaska coal entries.

Saturday, the 28 day of August, 1909, McDonalds Coal Camp, Alaska:

G. F. McDonald, guide, 1 day, \$5.00, board included. Located 12 buildings and sawmill on McDonald group Seattle Coal claim Alaska Coal Entries. Ex. 3 coal claims Christopher group. Afft L. A. Thurston in re his coal entry.

Sunday, the 29 day of August, 1909, McDonalds Coal Camp, Alaska:

L. A. Thurston, guide, 1 day, \$5.00, board included. Ex. 12 coal claims Christopher Alaska group.

Monday, the 30 day of August, 1909, McDonalds Coal Camp, Alaska:

On Vr 3 paid L. A. Thurston Katella Alaska guide Aug. 23, 26, 27, & 29, 4 days @ \$5.00 per day, \$20.00, board included. Ex. 7 coal claims Christopher group, Alaska coal entries.

Tuesday, the 31 day of August, 1909, McDonalds Coal Camp, Alaska:

Vr 4 G. F. McDonald, guide & packer, August 13, 24, 25, 27 & 28, inc., 5 at \$5.00 per day, board included, \$25.00. Board for Indian packer, Aug. 23 & 26. 2 at \$1.50, \$3.00. Total, \$28.00. Vr 5 M. A. Green, for services of Walter Edkins as guide, Aug. 4, 5, 6, 7 & 8, 5 at \$5.00, \$25.00. Board for Indian packer Aug. 4, 5, 6, 7, 8, 9, 10 & 11, 8 days at \$1.50 per day, \$12.00; total, \$37.00. Services. Field work in this locality completed storm bound could not proceed to Katella, next place of business.

Daily reports, September, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Wednesday, the 1st day of September, 1909:

McDonald Camp, Chilkat, & Katalla, Alaska. Vr. 1, G. F. McDonald, Katalla, Alaska, transportation from Coal Camp via Chilkat to Katalla, Ala. Him returning. Beg. 8 a. m., Sept. 1st, trip requiring 3 days. The trip, \$20.00. Phone charges at Katalla on telegram from Mr. Glavis, chief, 25c. Phone charges on telegram from Mr. Sheridan, in charge, 25c. paid at Katalla. En route from Coal Camp via Chilkat to Katalla, Alaska.

Thursday, the 2d day of September, 1909, Katalla, Alaska:

Paid at Katalla phone charges on telegram from Mr. Glavis, 25c. At Katalla to Mr. Gray, wharfage on baggage, 50c. Secured affidavit of O. L. Willoughby, W. N. Letcher, and statement L. A. Thurston in re Alaska coal entries. At Katalla, Alaska, waiting for ship transportation to Seattle, Wn.

Friday, the 3d day of September, 1909, Katalla, Alaska:

United Wireless Tel. Co., telegram to Glavis, Seattle, 10 words, \$1.00; phone charges Katalla, 25c.; total, \$1.25. Same Co., telegram S. N. Stoner, Juneau, Alaska, 13 words, \$1.07; phone charges at Katalla, 25c.; total, \$1.32; both paid at Katalla, Alaska. At Katalla, Alaska, waiting for ship transportation to Seattle, Wn.

Saturday, the 4th day of September, 1909, Katalla, Alaska:

At Katalla, waiting for ship transportation to Seattle, Wn.

Sunday, the 5th day of September, 1909, Katalla, Alaska:

At Katalla, Alaska, waiting for ship transportation to Seattle, Wn.

Monday, the 6 day of September, 1909, Katalla, Alaska:

United Wireless Tel. Co. at Katalla, Ala., telegram, 38 words, 2.96; phone charges at Katalla, 25c; total, \$3.21. At Katalla, Alaska, waiting for ship transportation to Seattle, Wn.

Tuesday, the 7 day of September, 1909, Katalla, Alaska, and en route to Cordova:

Vr. 2 Chas. Auer, Katalla, Ala. Lighterage wharf to steamship *Santa Clara*, \$2.00; fee to purser on ship, 25c; to Alaska Steamship Co. T. R. 17415 ticket Katalla to Cordova, Ala., \$8.00. En route steamship *Santa Clara* Katalla to Cordova, Ala.

1024 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

Wednesday, the 8 day of September, 1909, Cordova, Ala.:
 Buss fare for self and suit case, wharf to hotel, 50c. Ar. Cordova 7 a. m. Waiting for boat en route to Seattle, Wn.
 Thursday, the 9th day of September, 1909, Cordova and mile 50. Alaska:
 T. R. 17416 to Alaska Coast Co. for ticket Cordova, Ala., to Seattle, Wn., \$45.00.
 T. R. 17417 to Katella Ry. Co. ticket Cordova to Miles Glacier and return, \$10.00. Meals included in steamship ticket; no extra charge. Secured affidavit of Archie W. Shields. Intv. Harry Hawkins in re Alaska coal entries. At 9 a. m. lv. Cordova; ar. returning at 7 p. m.
 Friday, the 10th day of September, 1909, Cordova, Ala.:
 Waiting for boat en route to Seattle, Wn.
 Saturday, the 11 day of September, 1909, Cordova, Ala.:
 Waiting for boat enroute to Seattle, Wn.
 Sunday, the 12 day of September, 1909, Cordova, Ala.:
 Waiting for boat enroute to Seattle, Wn.
 Monday, the 13 day of September, 1909, Cordova, Ala.:
 Waiting for boat enroute to Seattle, Wn.
 Tuesday, the 14 day of September, 1909, Cordova, Ala., and enroute:
 Alaska Transfer Co., baggage hotel to wharf at Cordova, Ala., 50c. At 7 p. m. leave Cordova, Ala., steamship Santa Clara, for Seattle, Wn.
 Wednesday, the 15 day of September, 1909, on steamship enroute to Seattle, Wn.
 Fee to purser assistant, 25c. Enroute to Seattle, Wn., on steamship Santa Clara.
 Thursday, the 16 day of September, 1909, en route to Seattle, Wn.:
 Fee to purser assistant, 25c. En route to Seattle on steamship Santa Clara.
 Friday, the 17 day of September, 1909, en route to Seattle, Wn.:
 Fee to purser assistant, 25c. En route to Seattle, Wn., on steamship Santa Clara.
 Saturday, the 18 day of September, 1909, en route to Seattle:
 Fee to purser's assistant, 25c. En route to Seattle, Wn., on steamship Santa Clara.
 Sunday, the 19 day of September, 1909, en route to Seattle, Wn.:
 Fee to purser's assistant, 25c. En route to Seattle, Wn., on steamship Santa Clara.
 Monday, the 20 day of September, 1909, en route to Seattle, Wn.:
 Fee to purser's assistant, 25c. En route to Seattle, Wn., on steamship Santa Clara.
 Tuesday, the 21 day of September, 1909, en route to Seattle, Wn.:
 Fee to purser's assistant, 25c. En route to Seattle, Wn., on steamship Santa Clara.
 Wednesday, the 22 day of September, 1909, en route to Seattle, Wash.:
 Buss from wharf to hotel, 25c. En route to Seattle on steamship Santa Clara.
 Arrived in Seattle, Wn., 11 p. m.
 Thursday, the 23 day of September, 1909, Seattle, Wash.:
 Making July and August monthly account and consulting on maps with Agent Stoner.
 Friday, the 24 day of September, 1909, Seattle, Wash.:
 Vr. 2 to City Messenger & Del. Co., Seattle, Wn., Ctg. on baggage wharf to office & hotel, \$1.50; storage at wharf paid by Bag. Co., 75c.; total, \$2.25. Working on maps of Alaska coal entries with Agent Stoner.
 Saturday, the 25 day of September, 1909, Seattle, Wn.:
 Working on maps and reports of Alaska coal entries.
 Sunday, the 26 day of September, 1909, Seattle, Wn.:
 Monday, the 27 day of September, 1909, Seattle, Wash.:
 Working on Alaska coal reports.
 Tuesday, the 28 day of September, 1909, Seattle, Wash.:
 Working on Alaska coal reports.
 Wednesday, the 29 day of September, 1909, Seattle, Wash.:
 Working on Alaska coal reports.
 Thursday, the 30 day of September, 1909, Seattle, Wash.:
 Working on Alaska coal reports.

Daily reports, October, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Friday, the 1st day of October, 1909, Seattle, Wash.:
 Working on reports of Alaska coal entries.
 Saturday, the 2d day of October, 1909:
 On leave absence with pay.
 Sunday, the 3d day of October, 1909, Seattle, Wash.:
 On leave with pay. Sunday.

Monday, the 4th day of October, 1909, Seattle, Wn.:
Returned to duty at 9 a. m., after leave of absence. Working on reports of Alaska coal entries.

Tuesday, the 5th day of October, 1909, Seattle, Wash.:
Working on reports of Cunningham Alaska coal entries.

Wednesday, the 6th day of October, 1909, Seattle, Wn.:
Working on reports of Cunningham Alaska coal entries.

Thursday, the 7th day of October, 1909, Seattle, Wn.:
Working on reports of Cunningham Alaska coal entries.

Friday, the 8 day of October, 1909, Seattle, Wn.:
Working on reports of Cunningham Alaska coal entries.

Saturday, the 9 day of October, 1909, Seattle, Wn.:
Working on reports of Cunningham Alaska coal entries.

Sunday, the 10 day of October, 1909, Seattle, Wn.:
Sunday.

Monday, the 11 day of October, 1909, Seattle, Wn.:
Working on reports of Cunningham Alaska coal entries.

Tuesday, the 12 day of October, 1909:
Working on reports of Cunningham Alaska coal entries.

Wednesday, the 13 day of October, 1909, Seattle, Wn.:
Working on reports Cunningham Alaska coal entries.

Thursday, the 14th day of October, 1909, Seattle, Wn.:
Completed report of Cunningham Alaska coal entries (33 entries).

Friday, the 15 day of October, 1909, Seattle, Wn.:
Working on report of Hunt group Alaska coal entries.

Saturday, the 16 day of October, 1909, Seattle, Wn.:
Working on report of Hunt group Alaska coal entries.

Sunday, the 17 day of October, 1909, Seattle, Wn.:
Sunday.

Monday, the 18 day of October, 1909, Seattle, Wn.:
Working on report of Hunt group Alaska coal entries.

Tuesday, the 19 day of October, 1909, Seattle, Wn.:
Working on report of Hunt group Alaska coal entries.

Wednesday, the 20 day of October, 1909, Seattle, Wn.:
Registering letter to S. J. Colter, Duluth, Minn., 8c. Working on report of Hunt group, Alaska coal entries.

Thursday, the 21 day of October, 1909, Seattle, Wn.:
Working on report of Hunt group, Alaska coal entries.

Friday, the 22 day of October, 1909, Seattle, Wn.:
Working on report of Hunt group, Alaska coal entries. Wrote letter to Hon. Commissioner.

Saturday, the 23 day of October, 1909, Seattle, Wn.:
Completed report of field examination of twelve entries of Alaska Petroleum & coal Co., A. B. Hunt, agent.

Sunday, the 24 day of October, 1909, Seattle, Wn.:
Sunday.

Monday, the 25 day of October, 1909, Seattle, Wn.:
Working on reports Controller Bay Coal Co., Alaska coal entries.

Tuesday, the 26 day of October, 1909, Seattle, Wn.:
Three street-car fares, at 5c. each, 15c., at Seattle, Wn. Ex. charter or incorporation records at King County court-house, and investigating Controller Bay Coal Co. case in re Alaska coal entries.

Wednesday, the 27 day of October, 1909, Seattle, Wn.:
Working on report of Controller Bay Coal Co., Alaska coal entries.

Thursday, the 28th day of October, 1909, Seattle, Wn.:
Introduced to Agent Metseger, Jesse Fry, and Geo. A. Leekley, who gave information as to fraud in re Controller Bay and Smokeless Coal Co. entries in Alaska. Working on report of Controller Bay Coal Co., Alaska coal entries.

Friday, the 29 day of October, 1909, Seattle, Wn.:
Working on reports of Controller Bay Coal Co., Alaska coal entries.

Saturday, the 30 day of October, 1909, Seattle, Wn.:
Completed reports of field examination of three entries of Controller Bay Coal Company, Alaska coal entries.

Sunday, the 31 day of October, 1909, Seattle, Wn.:
Sunday.

Daily reports, November, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Monday, the 1st day of November, 1909, Seattle, Wn.:
Working on report of Bering River, Alaska, Coal Company, Alaska coal entries.
M. A. Green, agent. Wrote letter to Agent Sheridan on Warddeil Alaska coal entries.

Tuesday, the 2nd day of November, 1909, Seattle, Wn.:
Working on reports of Bering River, Alaska, Coal Company, Alaska coal entries.
M. A. Green, agent.

Wednesday, the 3 day of November, 1909, Seattle, Wn.:
Working on reports Bering River, Alaska, Coal Company, Alaska coal entries. M. A. Green, agent.

Thursday, the 4 day of November, 1909, Seattle, Wn.:
Working on reports Bering River, Alaska, Coal Company, Alaska coal entries.
M. A. Green, agent. Intv. M. A. Green in re coal crops on above entries.

Friday, the 5 day of November, 1909, Seattle, Wn.:
Completed report of field examination on six Alaska coal entries of Bering River, Alaska, Coal Company.

Saturday, the 6th day of November, 1909, Seattle, Wn.:
Working on report of field examination of English Company, Alaska coal entries.
Arthur Stracy, former agent.

Sunday, the 7 day of November, 1909, Seattle, Wn.:
Sunday.

Monday, the 8th day of November, 1909, Seattle, Wn.:
Working on report of field examination of English company, Alaska coal entries.
Arthur Stracy, former agent.

Tuesday, the 9 day of November, 1909, Seattle, Wn.:
Working on report of field examination of English company, Alaska coal entries,
Arthur Stracy, former agent.

Wednesday, the 10 day of November, 1909, Seattle, Wn.:
Working on report of field examination of English company, Alaska coal entries,
Arthur Stracy, former agent.

Thursday, the 11th day of November, 1909, Seattle, Wn.:
Making detail report on Cunningham coal entries for Mr. Sheridan.

Friday, the 12 day of November, 1909, Seattle, Wn.:
Completed reports of field examination of 40 entries of English company group,
Alaska coal entries, Arthur Stracy, former agent.

Saturday, the 13 day of November, 1909, Seattle, Wn.:
Working on reports of Smokeless Coal Co. (Feed group), Alaska coal entries, T. P. McDonald, agent. Worked up to noon of this day.

Sunday, the 14 day of November, 1909, Seattle, Wn., Sunday.

Monday, the 15 day of November, 1909, Seattle, Wn.:
Working on reports of Smokeless Coal Company (Feed group), Alaska coal entries,
T. P. McDonald, agent.

Tuesday, the 16 day of November, 1909, Seattle, Wn.:
Completed report of field examination of 8 Smokeless Coal Company Alaska coal
entries (Feed group), T. P. McDonald, agent.

Wednesday, the 17 day of November, 1909, Seattle, Wn.:
Reviewing notes and reports in re Cunningham coal case, with view of giving
testimony on same.

Thursday, the 18 day of November, 1909, Seattle, Wn.:
Attended hearing in case U. S. vs. Cunningham.

Friday, the 19 day of November, 1909, Seattle, Wn.:
Gave testimony in hearing of U. S. vs. Cunningham Alaska coal cases.

Saturday, the 20 day of November, 1909, Seattle, Wn.:
Gave testimony in hearing of U. S. vs. Cunningham Alaska coal cases.

Sunday, the 21 day of November, 1909, Seattle, Wn.:
Reviewing testimony given at hearing of U. S. vs. Cunningham & others; time consumed, 7 hours.

Monday, the 22 day of November, 1909, Seattle, Wn.:
Gave testimony in hearing of U. S. vs. Cunningham Alaska coal cases.

Tuesday, the 23 day of November, 1909, Seattle, Wn.:
Attended hearing of U. S. vs. Cunningham Alaska coal entries.

Wednesday, the 24 day of November, 1909, Seattle, Wn.:
Attended hearing of U. S. vs. Cunningham Alaska coal entries.

Thursday, the 25 day of November, 1909, Seattle, Wn., holiday.

Friday, the 26 day of November, 1909, Seattle, Wn.:
 Attended hearing U. S. vs. Cunningham Alaska coal entries.
 Saturday, the 27 day of November, 1909, Seattle, Wn.:
 Attended hearing in U. S. vs. Cunningham Alaska Coal Entries.
 Sunday, the 28 day of November, 1909, Seattle, Wn., Sunday.
 Monday, the 29 day of November, 1909, Seattle, Wn.:
 Working on reports of field examination of Chezum group Alaska coal entries.
 Tuesday, the 30 day of November, 1909, Seattle, Wn.:
 Working on reports of field examination of Chezum group of Alaska coal entries.

Daily reports, December, 1909.

[All signed "Andrew Kennedy, Special Agent."]

Wednesday, the 1st day of December, 1909, Seattle, Wn.:
 Completed report of field examination of Chezum group eleven (11) Alaska coal entries.
 Thursday, the 2 day of December, 1909, Seattle, Wn.:
 Working on report of field examination Hartline group of Alaska coal entries, John W. Hartline, agent.
 Friday, the 3 day of December, 1909, Seattle, Wash.:
 Working on report of field examination of Hartline group Alaska coal entries, Jno. W. Hartline, agent.
 Saturday, the 4 day of December, 1909, Seattle, Wn.:
 Completed report of field examination of the Hartline group of (16) entries of Alaska coal entries, John W. Hartline, agent.
 Sunday, the 5 day of December, 1909, Seattle, Wn.: Sunday.
 Monday, the 6 day of December, 1909:
 On leave of absence.
 Tuesday, the 7 day of December, 1909:
 On leave with pay.
 Wednesday, the 8 day of December, 1909:
 On leave with pay.
 Thursday, the 9 day of December, 1909:
 On leave with pay.
 Friday, the 10 day of December, 1909:
 On leave with pay.
 Saturday, the 11 day of December, 1909, Seattle, Wash.:
 Reported for duty at 9 a. m. Working on reports of field examination of Green group, Alaska coal entries.
 Sunday, the 12 day of December, 1909, Seattle, Wn.:
 Sunday.
 Monday, the 13 day of December, 1909, Seattle, Wn.:
 Working on reports of field examination of Green group, Alaska coal entries.
 Tuesday, the 14 day of December, 1909, Seattle, Wn.:
 Working on reports of field examination of Green group, Alaska coal entries.
 Wednesday, the 15 day of December, 1909, Seattle, Wash.:
 On leave, with pay.
 Thursday, the 16 day of December, 1909, Seattle, Wn.:
 Reported for duty at 9 a. m. Working on report of field examination Green group, Alaska coal entries.
 Saturday, the 18 day of December, 1909, Seattle, Wn.:
 Completed reports of field examination of (16) Portland-Alaska Anthracite Coal Co., Alaska coal entries; (15) Seattle Alaska Anthracite Coal Co., Alaska coal entries; (9) Alaska Anthracite Coal Co., Alaska coal entries; (15) Alaska Smokeless Anthracite Coal Co., Alaska coal entries; (21) individual Alaska coal entries. M. A. Green, agent.
 Friday, the 17 day of December, 1909, Seattle, Wn.:
 Working on reports of field examination Green group Alaska coal entries.
 Sunday, the 19 day of December, 1909, Seattle, Wn.:
 Sunday.
 Monday, the 20 day of December, 1909, Seattle, Wn.:
 Working on report of Doughton group Alaska coal entries, D. A. McKenzie, agent.
 Tuesday, the 21 day of December, 1909, Seattle, Wn.:
 Working on report of field examination of Doughton group Alaska coal entries, D. A. McKenzie, agent.
 Wednesday, the 22 day of December, 1909, Seattle, Wn.:
 Working on reports of field examination of Doughton group Alaska coal entries, D. A. McKenzie, agent.

Thursday, the 23 day of December, 1909, Seattle, Wn.:
 Completed report of field examination of Doughton group (30) Alaska coal entries, D. A. McKenzie, agent.
 Friday, the 24 day of December, 1909, Seattle, Wn.:
 Working on reports of field examination of Morrow group, Alaska coal entries, Al. Morrow, agent.
 Saturday, the 25 day of December, 1909, Seattle, Wn.:
 Holiday.
 Sunday, the 26 day of December, 1909, Seattle, Wn.:
 Sunday.
 Monday, the 27 day of December, 1909, Seattle, Wn.:
 Working on report of field examination, Morrow group, Alaska coal entries, Al. Morrow, agent.
 Tuesday, the 28 day of December, 1909, Seattle, Wn.:
 Working on reports of field examination, Morrow group, Alaska coal entries, Al. Morrow, agent.
 Wednesday, the 29 day of December, 1909, Seattle, Wn.:
 Completed reports of field Ex. of (10) Morrow group, Alaska coal entries, Al. Morrow, agent.

Mr. BRANDEIS. I call your attention to your daily report of September 22, 1909, and ask you whether you can state the exact date when you returned from Alaska?

Mr. KENNEDY. It states on Wednesday, September 22, at 11 o'clock p. m.

Mr. BRANDEIS. How soon after that time did you see Mr. L. R. Glavis?

Mr. KENNEDY. I went up to the Lincoln Hotel that evening on my arrival and met him there.

Mr. BRANDEIS. Did you see him also the following day?

Mr. KENNEDY. No, sir.

Mr. BRANDEIS. Did you see him also on the following day, Mr. Kennedy?

Mr. KENNEDY. No, sir.

Mr. BRANDEIS. What, if anything, did Mr. Glavis have to say to you or do with you with reference to certain boxes or barrels belonging to him of goods that were up in the grand jury room or otherwise in the federal building? But before you answer that question I withdraw the question for a moment and will ask you whether or not you had previously to that day anything to do with those boxes or barrels that were in the federal building?

Mr. KENNEDY. Yes; I had.

Mr. BRANDEIS. What had you to do with them before that day?

Mr. KENNEDY. Why, I was stationed at Portland up to, I think, about March 1, 1909, and there was an office established in Seattle, and I was transferred to that office. Mr. Glavis and I had rooms in Portland; he had a flat, rather, where he had some of his household furniture; and while we were preparing to leave for Seattle he got in there one evening in the house and threw all the stuff on the floor, and I looked for a man the next day and sent him up to pack it up and ship it to Seattle.

Mr. BRANDEIS. You and Mr. Glavis were living in the same flat at that time?

Mr. KENNEDY. I was temporarily living with him there. My home was in Seattle all the time.

Mr. BRANDEIS. What then was done with those matters?

Mr. KENNEDY. They were shipped to Seattle, and, I think, during my absence.

Mr. BRANDEIS. Where were they shipped to—shipped to Seattle?

Mr. KENNEDY. To Seattle.

Mr. BRANDEIS. And where in Seattle were they delivered?

Mr. KENNEDY. Well, I am not positive about that. I suppose one of the other agents had them taken to the federal building, and the next time I saw them they were in the corridor in the basement of the federal building.

Mr. BRANDEIS. And when was that?

Mr. KENNEDY. That was perhaps a few days after their arrival there.

Mr. BRANDEIS. And when did you see them last before you went to Alaska?

Mr. KENNEDY. Well, I think that was the time I saw them last.

Mr. BRANDEIS. When they were still in the basement?

Mr. KENNEDY. Yes; that I saw them before going to Alaska.

Mr. BRANDEIS. Or in the corridor?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. When did you see them next after your return from Alaska?

Mr. KENNEDY. On my return from Alaska I saw Mr. Glavis that evening, and perhaps visited with him and talked matters over for about two or three hours, and he gave me a key to the grand jury room and asked me to deliver it to the custodian.

Mr. BRANDEIS. Who is the custodian?

Mr. KENNEDY. Mr. O'Neil. He at the same time asked me to learn if the custodian objected to these goods being left there, as they were his personal effects.

Mr. BRANDEIS. Did he give you any instructions?

Mr. KENNEDY. And if there was, to pack them up and put them in storage.

Mr. BRANDEIS. If he did object?

Mr. KENNEDY. If he did object; yes. The very first thing I did, going to the office next morning, I stopped in and delivered the key to the custodian and made this request of him.

Mr. BRANDEIS. What did you say to him?

Mr. KENNEDY. I told him that Mr. Glavis had given me the key to return to him, and if he could, he desired to have these goods remain there, they were his personal effects, in the grand jury room; but if it was not convenient, I would have them shipped out to storage. And he said that perhaps they would want to use that grand jury room at any time, but he had a private storeroom in which they could be put for a while, and when he was ready to take them over there he would let me know.

Mr. BRANDEIS. What did you do with the key?

Mr. KENNEDY. I delivered him the key at that time.

Mr. BRANDEIS. That is, you delivered it to Mr. O'Neil?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And this, then, was on the 23d of September?

Mr. KENNEDY. On the 23d. I went to the office the next day, the next morning.

Mr. BRANDEIS. The next day after your arrival?

Mr. KENNEDY. Yes, sir; about a week or ten days; perhaps it was three weeks—I haven't any way of fixing the date—I was working in the office and he came in.

Mr. BRANDEIS. You mean in the land office?

Mr. KENNEDY. In the land office.

Mr. BRANDEIS. In the same building?

Mr. KENNEDY. In the same building, the federal building in Seattle.

He came in and said I am ready to move those goods of Glavis's now; and he and I went up there.

Mr. BRANDEIS. By the way, had you gone up there before that day, on the 23d of September, when you gave him the key?

Mr. KENNEDY. No; I did not.

Mr. BRANDEIS. And you did not go up there between that time and the date you went up with him that you are telling about now?

Mr. KENNEDY. No, sir.

Mr. BRANDEIS. Now, if you will go on.

Mr. KENNEDY. And he and I went up there together, and as near as I can remember this box stood there; the box was partly filled.

Mr. BRANDEIS. Was the box open?

Mr. KENNEDY. The box was open and partly filled with books and other stuff; I did not look at them or examine them to see what they were.

Mr. BRANDEIS. How large a box was this?

Don't you think that you might have that box brought in or have it exhibited to the witness, Mr. Chairman?

Senator FLETCHER. We have all seen the box out here.

The CHAIRMAN. We have seen it out there.

Mr. KENNEDY. I should describe it as being about 4 feet long, 2 feet wide, and 2½ feet high.

The CHAIRMAN. You have seen the box out there?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. Is that the box out in this other room?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. You say the box was open. I wish you would describe that a little more.

Mr. KENNEDY. There were two boards—I am not sure whether there were four or five boards on top of the box, but there were two or three boards nailed that apparently had not been removed, and two had been taken off, and they were off at that time.

Senator FLETCHER. Were they loose or had they been entirely removed?

Mr. KENNEDY. I think they were setting over on the part that was nailed. I would not be positive about that.

Mr. MADISON. You could see in the box and see the contents?

Mr. KENNEDY. Yes, sir. There was apparently a lot of books on the table and a sleeping bag on the floor, and a tent, and I thought that those things were Glavis's; I was not positive about it. And they wanted the room cleared and I threw those things in the box; and there were a lot of books on a long table there. They might have been other books, but they looked like a lot of law-binding books. I put those also into the box.

Mr. BRANDEIS. Anything else lying out that you saw there?

Mr. KENNEDY. There were some log scales rolled up; they were wrapped in a bundle.

Mr. BRANDEIS. Was not there a polar bear skin there?

Mr. KENNEDY. There were two bear skins spread out on this table, and apparently the land office pamphlets were lying there.

Mr. BRANDEIS. You say that the box was about half full?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Did you examine this box now to see whether it was half full?

Mr. KENNEDY. No, sir; it had not been opened that I know of.

Mr. BRANDEIS. That is, you have not looked into it to see what there is in it?

Mr. KENNEDY. No, sir.

Mr. BRANDEIS. Did you look at any time—do you recall looking at any special thing in that box?

Mr. KENNEDY. I just recall that I did not look at anything only to see that there were some books in the box and a mirror that could be seen.

Mr. BRANDEIS. Well, now, what did you do then? By the way, you said there was something else up there besides this box.

Mr. KENNEDY. A couple of barrels.

Mr. BRANDEIS. Was there anything else?

Mr. KENNEDY. A box and two barrels, two bear skins, tent, and sleeping bag were on the floor.

Mr. BRANDEIS. Were there not some other boxes in there?

Mr. KENNEDY. There were no other boxes in that room.

Mr. BRANDEIS. Not in that room. Were there any other boxes of Glavis's around there?

Mr. KENNEDY. There had been, but I had forgotten about them, and I did not see them at that time.

Mr. BRANDEIS. What were those other boxes that you did not see at that time?

Mr. KENNEDY. One of them was a music box and the music records.

Mr. BRANDEIS. That is, the records that are used in the music machine?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. What did you do then?

Mr. KENNEDY. Mr. O'Neil, with the janitor, took them over to the storeroom, which was in the other end of the building. I spread the bear robes out on the table there, with the assistance of, I believe, Mr. O'Neil, at the time, and the box was set where he directed to have the things put, and the barrels; and I laid those two boards on the box, did no nailing, and left them.

Mr. BRANDEIS. You just laid them on there without nailing them or fastening them in any way?

Mr. KENNEDY. They were not fastened by me in any way.

Mr. BRANDEIS. And did Mr. O'Neil retain the key?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And was that the last time that you saw that box before you saw it in the other room?

Mr. KENNEDY. No, sir; I left Seattle for a trip on about the 31st of January, and I think on the train—and I returned about the 15th of February. I think on the train I had read in the newspapers where those letters which I had heard talked of around the office so many times after my return from Alaska were found in the box with Glavis's private effects, and it surprised me very much. And as I knew I had been in the room it may appear that I had put them there, but Mr. Glavis never gave me a paper to put there, never asked me

to put anything there, and I did not add a paper to the box or take anything into the room.

Mr. BRANDEIS. Had Mr. Glavis already left Seattle at the time you went up there with Mr. O'Neil?

Mr. KENNEDY. Of course, I have heard some question that he did not leave Seattle, but the evening of my return——

Mr. BRANDEIS. The 22d?

Mr. KENNEDY. The 22d. I saw him two or three hours, and I did not see him, I think, for fully a month after that, until after he returned from Chicago.

Mr. BRANDEIS. That is, he returned for the trial—when he appeared at this hearing?

Mr. KENNEDY. No; I think he returned a little before that.

Mr. BRANDEIS. Well, now, the question I asked you was whether you had seen that box in the interval between the 23d day of September and this day when you saw it in the executive room of the committee?

Mr. KENNEDY. Well, as I knew that I had been in the room, I went down on my return the same afternoon——

Mr. BRANDEIS. That is February 15 or 16?

Mr. KENNEDY. It was on Tuesday—a week last Tuesday.

Mr. BRANDEIS. A week ago last Tuesday?

Mr. KENNEDY. Yes, sir; and I went down and talked with Mr. O'Neil about the box. I said that it was a very funny thing about these papers. "Yes," he said, "that is." He said: "I wonder how they got in there?" I said, "I was in the room and you were there, too." I had brought back the key, and I wanted to get all the information I could. And he said: "I can not understand how they got there." I said: "Was there anybody in this room in the meantime, since the time we moved the stuff?" He said: "Mr. Sheridan and his people used the grand jury room, and also Mr. Parks, special agent of the Land Office, was down looking for the papers a few days before they found them." And then the next day I was leaving town and I went down—I expected to leave on this trip—and I went down to the office to see if there was any mail down there for me, and I went in O'Neil's office again, and we went up at that time with Mr. Christensen; he was in there, and we went up and saw the goods in the storage room where they were placed by my instruction.

Mr. BRANDEIS. Did you have any discussion with Mr. Christensen or O'Neil about the matter?

Mr. KENNEDY. There was a doubt between O'Neil and myself as to when I had delivered that key to him. He said it was not on the 23d or 24th that I had been up to the rooms. "Well," I said, "I will certainly have to differ with you on that. You can testify to whatever you want to, but I shall have to testify that it is not so." And during the talk there he said: "Yes; I remember now the day that you gave me the key, and I can place it within a day or so;" and that he came after me then to move the things later on.

Mr. BRANDEIS. Had you spoken to him about all the circumstances?

Mr. KENNEDY. Not until that day.

Mr. BRANDEIS. Did he then agree with your recollections?

Mr. KENNEDY. He did; yes, sir.

Mr. BRANDEIS. Now, you were about to say that you and Mr. Christensen and Mr. O'Neil did something. What did you do?

Mr. KENNEDY. We went up there and examined the box.

Mr. BRANDEIS. Where did you find it?

Mr. KENNEDY. In the storage room where it was placed.

Mr. BRANDEIS. By you?

Mr. KENNEDY. By my instructions.

Mr. BRANDEIS. On the 23d of September?

Mr. KENNEDY. No; it was not placed there.

Mr. BRANDEIS. I mean within a week or ten days, or two weeks, or three weeks after the 23d of September?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Now, what did you find there?

Mr. KENNEDY. I found everything there, as near as I can remember, that had been there. Mr. Christensen told me he had taken some books down to the office which had been in there, but he thought they were government property.

Mr. BRANDEIS. He said he had taken them?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And who pointed out the box to you, if anybody?

Mr. KENNEDY. Why, Mr. Christensen pointed out a couple of large dictionaries, and he said: "I found the papers there."

Senator FLETCHER. Were they in the box, the dictionaries?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And the box was open when you saw it?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And was it half filled, or how was it?

Mr. KENNEDY. About half full.

Mr. BRANDEIS. Well, then, did you go out together—leave there together?

Mr. KENNEDY. I had an appointment with a man on this work which I had been doing at 11 o'clock, and I told him I would have to go. He wanted to know if I would come back in the afternoon. After I came back we went there together.

Mr. BRANDEIS. Who went there with you?

Mr. KENNEDY. Mr. Christensen, Mr. O'Neil, and myself.

Mr. BRANDEIS. And was it Mr. Christensen who asked you to come back?

Mr. KENNEDY. Yes, sir; Mr. O'Neill proceeded to wrap up some of the things there which were in the box preparatory to shipping them here; and then he went over into another room where this music box and the music records were. I had never seen them since I shipped them from Portland.

Mr. BRANDEIS. The barrels were still in that place?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Did you examine the barrels particularly?

Mr. KENNEDY. I think one of the barrels had been opened.

Mr. BRANDEIS. It had been opened?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Did you notice whether this barrel which is in the other room, the executive room, is the one?

Mr. KENNEDY. It has a paper on. I think it is the same barrel.

Mr. BRANDEIS. Well, you testified in this hearing on the Cunningham claims in November, 1909, did you not?

Mr. KENNEDY. Why, I think it was November; along about that time.

Mr. BRANDEIS. And the subject of your testimony was your field examination that you had made in Alaska?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And was that matter gone into very elaborately?

Mr. KENNEDY. Yes, sir; we went all over the map which I had prepared and my notes during the trial.

Mr. BRANDEIS. How long were you on the stand in that case?

Mr. KENNEDY. I think it was two days.

Mr. BRANDEIS. How long had you been in Seattle before that time, or was it in Seattle that you were examined?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. How long had you been in Seattle prior to your going upon the stand?

Mr. KENNEDY. Well, it was prior to the 22d of September.

Mr. BRANDEIS. Up to the middle of November.

Mr. KENNEDY. Why, I do not recall the date that the hearing was. I think it was the early part of November.

Mr. BRANDEIS. And Mr. Sheridan had been there during that time?

Mr. KENNEDY. Yes, sir. I think he was there when I came back from Alaska.

Mr. BRANDEIS. To what extent had Mr. Sheridan gone over this case with you prior to the time when you were put on the stand? How much time did he spend with you in going over the case before you were put on the stand?

Mr. KENNEDY. Why, during the conversations in the office we had talked on the case. I think that would probably be several times for a minute or two; but I think then before I got ready to testify we spent about five minutes—five or ten minutes.

Mr. BRANDEIS. And that is all that you had any conference with him before he put you on the stand in that case?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And were you the principal witness who testified as to the results of the field examination in Alaska?

Mr. KENNEDY. I believe I was the only one for the Government.

Senator FLETCHER. Do these reports show the result of his examination there and the amount of coal and the tunnels, and all that sort of thing?

Mr. BRANDEIS. Yes.

Senator FLETCHER. If the reports show it, I do not want to ask him about it; if they do not show it, it might be material.

The CHAIRMAN. You made a report, did you not, Mr. Kennedy?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And the testimony which you gave in this case shows the whole result of this investigation?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. The tunnels and the relation of the workings to one another up there?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. One more question, Mr. Kennedy. Did you while you were in Alaska ascertain any facts in relation to the workings or failure to open up any of these claims, or to work any of the claims?

Mr. KENNEDY. Well, I do not quite get the question.

Mr. BRANDEIS. I mean did you get any information as to any claim not having been worked at all?

Mr. KENNEDY. I was unable to find work done on some of the claims.

Mr. BRANDEIS. On some of the claims?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Before you left for Alaska did you have any written instructions?

Mr. KENNEDY. I did.

Mr. BRANDEIS. To whom were they given?

Mr. KENNEDY. Mr. Glavis.

Mr. BRANDEIS. Have you got those instructions?

Mr. KENNEDY. I am unable to find that letter of instructions, but as I had no government papers at the time, which the instructions always included, I probably was careless with it, and it was a very hard place to keep papers, and I have been unable to find it. But during the Cunningham hearings at Seattle a copy of the letter was produced there.

Mr. BRANDEIS. And it appears in the records, does it?

Mr. KENNEDY. Mr. Sheridan refused to present the letter, as it contained other matters than the Cunningham coal inquiry.

Mr. BRANDEIS. You mean a copy was in the possession of Mr. Sheridan?

Mr. KENNEDY. No. The copy was down in the field agent's office, and he sent down and had it brought up to the room where the hearing took place.

The CHAIRMAN. Field agent—do you mean Mr. Glavis's office?

Mr. KENNEDY. Well, Mr. Christensen at that time.

Mr. OLMSTED. Those daily reports must number several hundred. Is it necessary to put them all in?

Mr. BRANDEIS. Yes; but there are only a line or two on each. I want to check the exact work he did in connection with it, which will appear when we put it in.

Senator ROOT. When you spoke of making a report you meant something in addition to these daily reports?

Mr. KENNEDY. That is the report of the result of the investigation to the commissioner.

Senator ROOT. That was a report made to the commissioner?

Mr. KENNEDY. Yes, sir.

Senator ROOT. Did Mr. Sheridan have that?

Mr. KENNEDY. Yes, sir.

Senator ROOT. At the time of your hearing?

Mr. KENNEDY. Yes, sir. And that was what we talked of during the different days.

Mr. GRAHAM. And that you have not now; that is missing now, is it?

Mr. KENNEDY. No; it is here. It is the letter of instructions that is missing.

Senator PURCELL. That report is in the testimony?

Mr. KENNEDY. I think so. It was introduced at the hearing.

Mr. BRANDEIS. That is, it was introduced at the hearing in Seattle?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. The hearing on the Cunningham cases?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. It has not been introduced here.

Senator PURCELL. But it is a part of that evidence?

Mr. BRANDEIS. But it has not been read in evidence.

Mr. GRAHAM. Do your reports, the daily report, or the testimony to which you refer cover pretty fully the conditions you found in Alaska as to the extent and direction of the tunnel, the thickness of the vein or veins of coal, and all that?

Mr. KENNEDY. Why, the evidence covers the thickness and all that data very thoroughly, I think.

Senator PURCELL. The report here, he says.

Mr. KENNEDY. The report covers—

Mr. GRAHAM. My question includes the report and evidence.

Mr. KENNEDY. The report covers principally the claims and the claims on which work had been done, and the map which accompanies it and shows the location of them, and I believe I said that the report covers the extent and my notes then in the evidence fully gives the detailed account of the work done, and my recommendations are in the report as to the land being coal in character.

Mr. BRANDEIS. You stated, Mr. Kennedy, that Mr. Christenson took out—or said he had taken out—certain books out of the Glavis box. Do you know what books they were?

Mr. KENNEDY. I did not look them over; no, sir.

Mr. BRANDEIS. Do you mean that he took them out in your presence?

Mr. KENNEDY. No, sir.

Mr. BRANDEIS. Or were they taken out previously?

Mr. KENNEDY. Well, while I was in his office he said: "Those are some books that were in the box and they are apparently government property."

Mr. BRANDEIS. But you did not know what they were?

Mr. KENNEDY. No, sir.

Mr. GRAHAM. Before the cross-examination, Mr. Kennedy, I would like to know a little more about these two loose boards which you say were on the box. When you saw it the next time, were they in the same condition in which you left them the first time you saw it?

Mr. KENNEDY. After they were placed in this storage room?

Mr. GRAHAM. Yes.

Mr. KENNEDY. No, sir; they had been in the box during my absence.

Mr. GRAHAM. You say "they" had been into the box. What do you mean by "they?"

Mr. KENNEDY. I think Mr. O'Neil or Mr. Christensen.

Mr. GRAHAM. That is, some one had been in there?

Mr. KENNEDY. Yes, sir; some one had been in there.

Mr. GRAHAM. The key that you gave to Mr. O'Neil was not the key to the little room to which the box had been conveyed, was it?

Mr. KENNEDY. No, sir.

Mr. GRAHAM. Well, do you know how many keys there were to the room in which the box was first placed?

Mr. KENNEDY. I do not.

Mr. GRAHAM. Do you know whether or not there was more than the one that you gave to Mr. O'Neil?

Mr. KENNEDY. I do not.

Mr. GRAHAM. Do you know anything about the number of keys there were to the room to which the box was subsequently moved?

Mr. KENNEDY. I do not.

Mr. GRAHAM. The books which Mr. Christensen said he took from that room, do you know whether he said they were taken from out of this box or not?

Mr. KENNEDY. No; I would not positively say that he said that they were taken out of the box, but naturally there were not any around and I assumed probably they were taken out of the box.

Mr. VERTREES. Mr. Kennedy, you have stated that you had, previously to the time you entered the government service, been working for some coal companies that were managed or controlled in some way by Mr. Ballinger, I believe.

Mr. KENNEDY. He was the attorney for the coal companies, I understand.

Mr. VERTREES. These were not Alaskan companies, were they?

Mr. KENNEDY. No, sir. It was near Seattle, and the land had been fully patented.

Mr. VERTREES. And in that way you became acquainted with him?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Those were companies operating in Washington?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Now, you said you returned from Alaska about the 22d of September, 1909?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. If I understand you, you had been there to make a field examination, particularly of the Cunningham group?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Who accompanied you?

Mr. KENNEDY. Special Agent Stoner.

Mr. VERTREES. As your assistant?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Did not a Mr. Wingate go up too?

Mr. KENNEDY. Why, after I got up to the field I received a letter—

Mr. VERTREES. That is Mr. G. Wingate?

Mr. KENNEDY. Yes; after I had gotten up to the field and finished my investigation of the Cunningham claims and some others, I received a letter from Mr. Glavis stating that Mr. Wingate, of the Forestry Service, was going to be sent up there to make an examination with me and that I should go over the Cunningham claims with him. As soon as I could locate him and he came there, I did start over the claims.

Mr. VERTREES. Did you examine them together, in each other's company, I mean?

Mr. KENNEDY. Why, part of the time; that is, I undertook to show him everything that I knew about them until he was satisfied. I took him to any point that he desired to go.

Mr. VERTREES. You made separate reports, did you not?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Did you ever see his report?

Mr. KENNEDY. I did.

Mr. VERTREES. Did he see yours before he made his?

Mr. KENNEDY. No, sir; and I did not see his.

Mr. VERTREES. Did he make any effort to see yours? Did he or the Forestry people make any effort to get yours before you had reported?

Mr. KENNEDY. Why, I think they did come and ask Mr. Sheridan for my report and a map.

Mr. VERTREES. Did you not refuse to give them up until their report was filed?

Mr. KENNEDY. Why, I did not have any voice in the matter. I turned it over to Mr. Sheridan.

Mr. VERTREES. Do you know whether that was done?

Mr. KENNEDY. They had some controversies there during these one or two months that I only heard parts of.

Mr. VERTREES. After you got there, didn't Mr. Glavis write you a personal letter?

Mr. KENNEDY. After I got where?

Mr. VERTREES. In Alaska, asking you to cooperate with Mr. Wingate and really to agree with him if you could.

Mr. KENNEDY. He said he was very anxious that we should cooperate and agree.

Mr. VERTREES. Could you produce that letter?

Mr. KENNEDY. I think I could.

Mr. VERTREES. Where is it?

Mr. KENNEDY. Why, I think that letter is over at the house.

Mr. VERTREES. Well, you can bring it in in the morning.

Mr. KENNEDY. I think so; I am not positive, but I think I can.

Mr. VERTREES. You brought it down here with you?

Mr. KENNEDY. I think I did. I think it is there, but I have not looked it over since I came.

Mr. VERTREES. With that understanding, that you will bring it in the morning, and that it will speak for itself, state now what its contents are.

Mr. KENNEDY. I will bring it, if I can. It will speak for itself.

Mr. VERTREES. To what extent did it press you to agree with him if possible?

Mr. KENNEDY. Well, Mr. Glavis underlined some points in it, asking me to make an effort to agree with Mr. Wingate and to work in harmony with him.

Mr. VERTREES. Did you reply to that letter?

Mr. KENNEDY. Why, I do not know whether I replied directly to it, but I did write quite a lengthy letter after we had met and made the examination.

Mr. VERTREES. Did you then find out what Mr. Wingate's report would be?

Mr. KENNEDY. No, I had not found out; but I assumed that he was going to make an adverse report to me, as to mine, and I thought that that would place the Government in a bad position, and if I had knowledge of that fact and I made it known to the field division it would clear me.

Mr. VERTREES. You have seen the report, have you not—Mr. Wingate's report?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Did not he report that as a commercial proposition the Cunningham land and all that land up there in the Katalla group was worthless?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Absolutely worthless?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And you reported otherwise? I here show you a paper which purports to be a copy of your report, which I ask you if that is a true copy, and while the witness is examining it I will state, Mr. Chairman, that a copy has already been filed in response to a demand of this committee. It was filed on February 5.

Mr. KENNEDY. I think that is a copy of my report.

Mr. BRANDEIS. Is that the copy that has been filed with the committee?

Mr. VERTREES. No; I do not understand that that is filed, but it was taken at the same time that this was.

Mr. BRANDEIS. It is a carbon copy?

Mr. VERTREES. Yes.

Mr. KENNEDY. It is not a copy of the one made by me; it is not a copy of the original. There may be a few words changed.

Mr. VERTREES. What do you mean by that? It has been furnished to me as a copy, and if there is any error in it I wish to know it.

Mr. KENNEDY. Well, I would say that I can read this all through, but I do not think there is anything in there—

Mr. VERTREES. Suppose you read it to the committee. I think it ought to be read.

Mr. KENNEDY (reading):

SEATTLE, WASH., September 24, 1909.

HONORABLE COMMISSIONER GENERAL LAND OFFICE,
Washington, D. C.

SIR: I have the honor to report that in pursuance of instructions of Mr. Glavis, Chief of Field Division, I made, during the latter part of July and middle of August, 1909, field examination of the 33 Cunningham Alaska coal entries.

Accompanying this report is a map, compiled by Special Agent Stoner, which shows the location of coal crops, tunnels, trails, etc., examined by me. I have personally examined the map and find it correct.

The surface of this property is rolling and is broken by numerous ravines and gulches, which has exposed the coal in many places. The property has two main streams—shown on map as Trout Creek and Clear Creek—running through it, and one on the extreme easterly side, known as Canyon Creek. These creeks have a low elevation and would be the feasible point for opening or mining the coal.

Along Trout Creek—which runs through three of the entries, shown on map as surveys 49, 51, and 55, these being on the westerly side of the property, and in this vicinity I find a large amount of prospect work has been done, such as open cuts on the veins and six tunnels driven into the hill from 10 to 400 feet in length.

On survey 51, or Tenino entry, beginning on the west bank of Trout Creek—as shown on map—there is a tunnel driven in a westerly direction 235 feet, with branches off it—one branch 208 feet, one 84 feet, one 63 feet, and other short branches. The strike of the vein is approximately N. 70 E., the dip N. 34 W., and the tunnel is driven approximately with the strike of the vein. The strike seems to be irregular at this point. The tunnel is started at an elevation of 400 feet and driven in practically level. At the face of the tunnel the surface has an elevation of 750 feet, so that the vein of coal will extend 350 feet above the coal in the tunnel and as the tunnel is extended the surface will have an elevation of 1,250 feet, or 800 feet above the coal in the tunnel. The surface elevations are shown by contour lines on map, by reference to which it will be seen that the coal available or the coal to be mined from this tunnel or opening is part of surveys 51, 52, 56, and 55. This tunnel would not be of special benefit to other entries of the group for the reason that the direction in which it has been driven, or could be driven, namely, westerly, prevents its reaching the coal east of its mouth or place of beginning.

Cost of tunnel: Under ordinary mining conditions a tunnel of this description could be driven for \$4 per linear foot. But from general observation of the conditions in connection with this tunnel, I would estimate the cost to be \$20 per linear foot.

The next general gulch through the property is Clear Creek, which runs in a south-westerly direction along line of surveys 57 and 58, through 45 and the southeast corner of 44, through 68 and the southeast corner of 50, and through 60. Considerable prospect work and some tunnel work has been done along this creek and its tributaries, and there are many veins of coal exposed in this locality. I find the approximate strike of the veins is N. 60 E., the dip N. 40 W. Taking this as a basis, approximately all the coal west of Clear Creek and to Trout Creek, or coal on surveys 68, 44, 43, 54, 53, 48, 41, 39, 37, 42, 47, 55, 46, and 40 would be workable from a point on the west bank of Clear Creek; and, according to report with plat attached, made by H. L. Hawkins, expert who made examination for Cunningham, a tunnel has been located in the northeast corner of survey 57 for the purpose of mining the above-described surveys, which are the lands west of Clear Creek. This tunnel was to be driven across the measures in a northwesterly direction and was to be started at an elevation of about 300 feet, and when driven to the end of the property, or to survey 38, the crop of the upper vein would have an elevation of 1,800 feet, or 1,500 feet of coal above the tunnel.

The coal east of Clear Creek or from surveys 59, 66, 70, 58, 71, 67, 61, 62, 64, and 69 was not intended to be mined from the above-mentioned projected tunnel, and from the direction the tunnel was to be driven the coal from these surveys could not be mined from it. From observation there are no indications on the ground that any plans have been made for mining the coal east of Clear Creek, which comprises about one-third of the entire group.

Geological Survey Bulletin No. 335 classes part of surveys 54 and 69, all of 58, and nearly all of 57 and 71 as noncoal bearing. During my examination I found coal crops of, I believe, seven different veins on surveys 69, 71, and 58, which measured in thickness from 1 to 5 feet, and from the course of the strike and dip of the veins I believe the veins will extend on surveys 54 and 57. There was very little work done on the veins at the points exposed, but from this and from indications found at other points examined I believe the lands of these surveys to be coal bearing.

I found coal on all the surveys except surveys 62, 37, 38, 40, 66, 70, 56, 53, and 54 (the points where coal was found being designated on map by numbered stations). Coal was found near the line of many of these surveys, and from all indications and the strike and dip of the strata all these surveys contain workable veins of coal. Three of these surveys, 37, 38, and 40, are of the tokun formation, which would not show coal on the surface; but coal being found close to them and the strata dipping toward them leaves no doubt as to their being coal bearing.

I hired an employee of Mr. Cunningham to show me the coal openings on all the surveys and made personal effort to see all the showings on the land, but in some cases the land was timbered and had a heavy growth of moss vegetation which covered the coal and strata, and for this reason I could have overlooked a point where coal might have been exposed.

As to workable veins on the property, at many of the points where prospecting had been done the earth had slid over the coal and the walls were not fully exposed, and for this reason I was unable to get the true thickness of all the veins. From general observation I believe there are twenty-two veins of coal on the property, with probably eighteen workable. This number of veins does not necessarily cover each and every entry.

By my personal knowledge of other coal mines and the general conditions of this particular field there is not timber enough on these surveys to mine the coal on the entire group.

ANDREW KENNEDY.

Mr. VERTREES. Mr. Chairman, I understand that this is in evidence.

Senator FLETCHER. You refer to survey numbers so and so.

The CHAIRMAN. That is admitted in evidence, if there is no objection.

Senator FLETCHER. Does the number of the survey correspond to the number of the claim?

Mr. KENNEDY. This number in here shows the number of the map which corresponds to it and accompanies this report.

Mr. VERTREES. Doesn't that have any reference to the number of the claim?

Mr. KENNEDY. It is the survey number in the land office that I used.

Mr. OLMSTED. Does one survey cover more than one claim?

Mr. KENNEDY. No, sir; it covers only 160 acres.

■ The CHAIRMAN. Mr. Kennedy, if you had complied with Glavis's request to agree with the representative of the Forestry Bureau, you would have had to report that there was no coal, would you not?

Mr. BRANDEIS. I do not think that the witness stated that that was Mr. Glavis's request.

The CHAIRMAN. I so understood him.

Mr. BRANDEIS. I do not understand that Mr. Glavis made any request or that the witness testified that he made any request to agree.

The CHAIRMAN. He said there was a letter which was underscored, and he thought he could find that letter.

Mr. BRANDEIS. He did; that is correct.

Mr. VERTREES. Mr. Kennedy, Mr. Sheridan made this report or the original when he took your deposition?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Was it not true that Mr. Stoner made a very elaborate map of the lands?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Geographical map and topographical?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Which accompanied your report?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And Mr. Sheridan had that map also?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. At the time your deposition was given?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. He had it before that also, did he not?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Now, as I understand your report, you reported all these lands, the Cunningham group, as coal land, and none of the sections or parts would be called timber lands, is that correct?

Mr. KENNEDY. If it has coal on it, I consider that that gets preference to timber.

Mr. VERTREES. I am not asking as to why, but as to the fact that you did report that feature.

Mr. KENNEDY. I reported that as coal land.

Mr. VERTREES. Is it not true that Mr. Wingate reported four or five of the claims as not having coal at all, and the others as being worthless? You saw the report, did you not?

Mr. KENNEDY. Why, I got the impression he said they had the appearance of coal, but there was no coal on any of it; but I might be mistaken.

Mr. VERTREES. He called it a shale, with just here and there a little blossom of coal in it, and said it was utterly worthless as a commercial proposition.

The CHAIRMAN. I presume, representing the Forestry Bureau, he was simply looking for forests and not looking for coal.

Mr. VERTREES. He was sent up there as a special coal expert, was he not, Mr. Kennedy?

Senator FLETCHER. At any rate that report will speak for itself. What is the use of taking the time of Mr. Kennedy here and of this committee asking him what is in that report?

Mr. VERTREES. Merely to emphasize it, Senator, and to get the thought out. However, I am going to read that first paper and see

if that is a copy of the report—the first one that appears in this; and if it is Mr. Wingate's report, read it. I offer it.

Senator PURCELL. He says he could not tell if it was Wingate's report.

Mr. VERTREES. He says that he saw it, and I am going to ask him if that is it.

Mr. KENNEDY. I saw it, but I could not recall every word that is in it from beginning to end, but just the general contents.

Mr. VERTREES. A copy has already been furnished here, and I offer that now as a copy of it.

The CHAIRMAN. Was that part of the document that was sent up here from the department?

Mr. VERTREES. Yes, sir.

Senator PURCELL. We have it before us.

Mr. VERTREES. I wish to put it before the committee, is what my object is.

Mr. GRAHAM. Will there be any trouble in proving his report in the usual way by him or someone else who knows?

Mr. VERTREES. This copy was furnished in response to a demand of the committee, and we have accepted it as an authentic copy.

Senator ROOT. What question are you asking him about, Mr. Vertrees?

Mr. VERTREES. The report of Mr. Wingate.

Senator ROOT. What was your question?

Mr. VERTREES. I asked him to state what the report was, and that was objected to. I am now offering to show what the nature of the report was.

Senator ROOT. As I understand it, it is before us now?

Mr. VERTREES. Yes.

Mr. GRAHAM. There is a paper before us, but it is not identified.

Senator PURCELL. He has asked him to read a copy of what purports to be the original report.

Mr. GRAHAM. The witness has stated that he can not say what it is.

The CHAIRMAN. It comes like all the other documents from the department.

Mr. VERTREES. It is my information that it is furnished to us as a copy of the original, and I have no doubt about the correctness of it.

Senator ROOT. You had better go on and ask him more questions about it.

Mr. VERTREES. Do you know, as a matter of fact, that after you and Mr. Wingate had differed so radically in the matter, that a third expert was sent up there from the Geological Survey, Mr. Fisher, to ascertain and determine what the facts were?

Mr. KENNEDY. Yes; I saw Mr. Fisher and he told me that he was up there.

Mr. VERTREES. Did you see his report?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Well, speaking generally, would not Fisher's report concur with you?

Mr. KENNEDY. Yes; he agreed that the land was all coal in character.

Mr. VERTREES. I wish now to offer in the same way copy of Mr. Fisher's report. It is quite elaborate and is also on file.

The CHAIRMAN. Those reports are admitted. They are on the same footing.

(Mr. Wingate's report is as follows:)

[Coal engineer in employ of Forest Service reports showing Cunningham group worthless for coal.]

CUNNINGHAM GROUP COAL CLAIMS, CHUGACH FOREST, BERING RIVER, ALASKA.

ASTORIA, OREG., October 4, 1909.

E. T. ALLEN, Esq.,
District Forester, United States Forest Service, Portland, Oreg.

DEAR SIR: In accordance with your letter of instructions to proceed to Bering River, Alaska, and examine and report on the Cunningham group of coal claims which are within the Chugach National Forest. I left Seattle August 2 on the steamer *Ohio* for Cordova, from there proceeded by launch across Copper River Delta and to Katalla, thence by launch (via Controller Bay) to Bering River to its junction with Stillwater Creek. Thence followed up Stillwater Creek and Clear Creek to Log Camp on east bank of Clear Creek, present headquarters for the Cunningham claim.

Mr. James McGrath, who is the resident representative of the Cunningham Company, kindly showed me over all the claims of this group, and being familiar with all the claim lines and corners and also all the croppings and points where any development work had been done on the several claims, rendered great service, and I was enabled to finish my examination in a shorter time than I otherwise would; and from the fact that the winter season was close at hand, his assistance was all the more timely and valuable.

My examination for the first few days was confined to the claims lying west of Clear Creek from the north down southerly along the slopes of Chizzum Peak and Monument Mountain to Bear Creek and headwaters of tributaries of Bear and Trout Creek. All of the development work on croppings were of the most perfunctory kind and of very little extent, simply "open cast" work in croppings of soft, crushed carbonaceous shale with kernels of coal mixed in the mass. The amount of labor expended on these "open cast" openings on all of the above-mentioned claim I estimate at thirty days' labor for one man. Mr. Andrew Kennedy, coal expert in the employ of the General Land Office, arrived and we examined the tunnel on right bank of Clear Creek on Ludlow claim (northern tier of claims). Length of tunnel and lateral, 118 feet, in carbonaceous shale mixed with coal badly crushed. Tunnel finished in slippery, soft rock.

Cabins had been built here, and some prospecting on left bank of creek at Falls, but all is now abandoned. Mr. Kennedy also examined with me tunnels on Trout Creek (southern tier of claims). The tunnels were on the Tenino and Adams claims. Measured 5 tunnels aggregating in all 787 feet. Mr. McGrath informed me that the other 3 tunnels, which were unsafe to examine, would measure in the aggregate 850 feet, making a total of 1,637 feet of tunnels on Trout Creek on Tenino and Adams claims.

Cabins and blacksmith shops were built here, all of which are now abandoned.

The evident intention was to find coal in the southern tier of claims (if it took all the money in the treasury) and follow the strike of the seams and develop the claims as a whole from those openings. The idea of opening and working the claims as a whole from this point received my unqualified indorsement, but can not commend their judgment in making so many openings.

The tunnel on the Ludlow claims was evidently started as a cross-cut tunnel, to cross-cut the measures and develop the lands from that point. Not finding coal of any commercial value at either place, the works were abandoned.

Estimated cost of tunnels on Tenino claim, 1,637 feet, at say, \$15.....	\$24,555
Estimated cost of tunnel on Ludlow claim, 118 feet, at say, \$15.....	2,770
Estimated cost of all other open cast work on all the claims, 30 days at \$10....	300

All of the claims east of Clear Creek toward Canyon Creek showed "blossoms" and small croppings of carbonaceous shale. The measures have been badly flexed and broken and basalt dykes are much in evidence. As a commercial coal proposition, the land is worthless. The same is true as to all of the claims in the Cunningham group.

WADDELL CLAIMS.

Went up mountain east of Clear Creek and found the northern boundary of Waddell claims. The claims are on a high ridge east of Clear Creek, which runs southerly to junction of Stillwater and Bering River. The ridge is composed of basalt bluffs with spurs running northeasterly from same into Clear Creek and Stillwater valleys. Followed down southerly along base of bluffs until satisfied that no coal of any value could be found in that ridge, or on those claims.

Very respectfully,

(Signed) G. WINGATE.
C. & M. E.

MEMORANDUM FOR THE SECRETARY.

Mr. Fischer's report is as follows:

In accordance with instructions issued on August 28, 1909, by John McPhane, Acting Assistant Commissioner of the General Land Office, I was detailed to proceed to Katalla, Alaska, for the purpose of making an examination of the Cunningham group of coal claims. I was further instructed that upon my arrival on the ground I was to place myself in communication with Messrs. Kennedy and Wingate, two coal experts, representing the Department of the Interior and the Forest Service, respectively, who had previously examined this property but had failed to agree as to its coal or noncoal character, and to arrange if possible, by a joint examination on the ground, some agreement between them. If, however, it was impossible to get into communication with those parties I was instructed to proceed alone to the field and make an examination sufficiently detailed so that there could be no question as to the character of the land.

I left Washington on August 30 and arrived at the Cunningham claims on September 25. I found that the property was being examined by Messrs. Winchell, a well-known geologist from the University of Wisconsin, and Green, a mining engineer from Cincinnati, who were reported to be making the examination in the interest of James J. Hill. Owing to the importance which was attached to the examination of this field I declined an invitation from these gentlemen to examine any of the property in company with them, notwithstanding that we made headquarters at the same cabin for nearly a week. These two gentlemen had been on the ground for about ten days when I arrived and were apparently making a careful examination of the district. It was also reported that H. V. Winchell, formerly the geologist for the Northern Pacific Railroad, had recently been on the ground.

I organized a party of 10 men, consisting of 2 assistant mining engineers, 4 prospectors, 3 laborers, and myself. Twenty-six days were spent in the field and the coals were prospected and measured in over 200 localities within the property. Twenty-eight distinct coal beds were found, ranging through a stratigraphic interval of about 4,000 feet, and aggregating a thickness of 189 feet of coal. The western half of the district is included within the Chugach National Forest. Within this area there is relatively dense growth of spruce and hemlock forest along Trout and Clear creeks, the two principal streams of the region. This timber extends up the slopes of the mountains to an elevation of about 900 or 1,000 feet, above which line the surface is covered by moss, grass, and low brush. In fact, less than one-third of the area of the Cunningham properties included within the forest reservation is timber land, and about the same proportion holds for the area outside the reservation.

On October 14 I received a telegram from Mr. J. M. Sheridan, special agent, General Land Office, Seattle, Wash., requesting that the results of my investigation be wired to Seattle by October 15. Accordingly on the day following the receipt of the message a thorough examination was made of the few remaining claims which had not already been examined and a report submitted by wire. On October 18, four days later, I dismissed the field party and started for Seattle, arriving on October 28. About two days later, or October 30, I submitted to Mr. Sheridan a report consisting of 68 typewritten pages and 34 topographic and coal maps, covering each individual claim examined. After my report was submitted I was furnished copies of the reports of Messrs. Kennedy and Wingate on the same property. The report by Mr. Kennedy, although very much less detailed, was in perfect accord with my own. On the other hand, that of Mr. Wingate, which consisted of 2½ typewritten pages, with no map accompanying, was entirely at variance with my findings. Mr. Wingate dismissed the properties by stating that the deposits consisted very largely of carbonaceous shale with only thin streaks of coal, and after making a few unfavorable comments on the methods employed to develop the deposits summed up his report by condemning the entire area as a coal proposition. This report, in my judgment, is, to say the least, absurd, and I am at a loss to understand how a man assuming to be a coal expert could submit a statement of this character on a district which obviously, even to the layman observer, is underlain by such a large number of workable coal beds, and especially when this coal is known to be, from analyses previously made, high-grade semianthracite and semibituminous coaking coal, comparing favorably with some of the best coals in the United States.

Very respectfully,

C. A. FISHER.
Geologist of U. S. Geological Survey.

NOVEMBER 9, 1909.

Mr. VERTREES. We will pass now from these reports, Mr. Kennedy. You returned from Alaska, where you had gone to make this field investigation, on September 22, 1909?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. What hour did you say you got in?

Mr. KENNEDY. Why, I do not—we are not always particular about the minute. It was 11 o'clock on my report, and I think that it was somewhere about that time.

Mr. VERTREES. You mean in the daytime?

Mr. KENNEDY. In the night.

Mr. VERTREES. Did you see Mr. Glavis that night?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And it was that night that he gave you the key?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. That key was to the grand jury room?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Where was that?

Mr. KENNEDY. That was at the Lincoln Hotel in Seattle.

Mr. VERTREES. You arrived by boat, did you not?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Did Mr. Glavis come down to meet you?

Mr. KENNEDY. No, sir.

Mr. VERTREES. You did not see him except at the hotel?

Mr. KENNEDY. I went up to the hotel and saw him there, but not by appointment.

Mr. VERTREES. And he gave you the key, with the request that you have already stated?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And you did not see him again for some time?

Mr. KENNEDY. I think it was fully a month before I saw him.

Mr. VERTREES. Whether he left town the next day or not, or later, you do not know?

Mr. KENNEDY. He said he was going, and I think he did go. If he had been around there, I would have seen him.

Mr. VERTREES. You said there was some discussion of that fact?

Mr. KENNEDY. I have heard that people had seen him there, but I do not think they did.

Mr. VERTREES. You do not know?

Mr. KENNEDY. I do not know; but I fully believe that he was out of the town.

Mr. VERTREES. Now, you went over and delivered the key to the janitor of the federal building?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. What was his name?

Mr. KENNEDY. Mr. O'Neil—to the assistant custodian, not the janitor.

Mr. VERTREES. You then told O'Neil of Mr. Glavis's request that the goods be permitted to remain there if that was allowable?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. But your instructions were, if they would not permit them to remain there, to remove them?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And Mr. O'Neil did not say much just then about that, but later—

Mr. KENNEDY. No; he said he was satisfied that they could be left there and appeared willing to accommodate Mr. Glavis.

Mr. VERTREES. But you stated that later he had a conversation with you, something about moving them?

Mr. KENNEDY. And that he would tell me when he wanted to move them, and he did come on a date that I can not fix.

Mr. VERTREES. In other words, he gave you to understand that while they might remain in the building, and he would be glad to do that, yet they would have to be transferred to another room?

Mr. KENNEDY. Yes; for the reason they might want to use the grand jury room suddenly.

Mr. VERTREES. They were then in the grand jury room?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And the key that you have spoken of was to that room, that you returned?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. How long after that before you saw him again with reference to the matter?

Mr. KENNEDY. I am unable to place that date; I do not seem to have any date to go by, whether it was ten days or two weeks or three weeks.

Mr. VERTREES. It was something like that?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And then he notified you that he was ready to move them?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And you called over there?

Mr. KENNEDY. And we both went up to the grand jury room at that time.

Mr. VERTREES. And it was then that you picked up the things that were out of the box, and put them in the box?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Mr. O'Neil being there at the time?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. You put everything in that you thought ought to go in?

Mr. KENNEDY. Everything that was in the room there.

Mr. VERTREES. And while you were there were they removed?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Who moved them?

Mr. KENNEDY. The janitor.

Mr. VERTREES. Did you see the place to which they were moved?

Mr. KENNEDY. I went over there, yes; and I saw where they were placed.

Mr. VERTREES. And then you saw them no more until when?

Mr. KENNEDY. Until about the 15th or the 16th of the present month.

Mr. VERTREES. Well, then, you then heard of the finding of the papers?

Mr. KENNEDY. I read in the newspapers that the letters that I had heard had been missing from the office were found.

Mr. VERTREES. You said you heard that the letters were missing from the office. When did you hear that?

Mr. KENNEDY. The very day that I came back from Alaska.

Mr. VERTREES. That is, the 22d of September?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And it was a matter of discussion in the office then?

Mr. KENNEDY. It was a matter of discussion for several months.

Mr. VERTREES. That these letters were missing was a matter of general discussion for several months from September 22?

Mr. KENNEDY. From September 22 up to the time I left, the 1st of January.

Mr. VERTREES. The 1st of January?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And the box had something in it—you do not know what—you did not examine anything in it when you put the other things in?

Mr. KENNEDY. I did not examine the contents.

Mr. VERTREES. But you saw it had contents; it had something in it?

Mr. KENNEDY. Yes; it was about half full.

Mr. VERTREES. But what it was you do not know?

Mr. KENNEDY. No, sir.

Mr. VERTREES. The books that you put in you think were law books?

Mr. KENNEDY. I think they were.

Mr. VERTREES. Did you put in any papers?

Mr. KENNEDY. I do not think there were any papers among them at all. There were some pamphlets, such as were sent out by the Land Office.

Mr. VERTREES. Printed matter?

Mr. KENNEDY. Printed matter.

Mr. VERTREES. You put in no writings of any kind?

Mr. KENNEDY. No writings whatever; and Mr. Glavis gave me none to put in, and I did not add any at all.

Mr. VERTREES. And you do not know anything about these letters, and you did not put them there?

Mr. KENNEDY. I never saw them, to the best of my knowledge.

Mr. VERTREES. Now, when the boxes were transferred, as you have stated, to the room in which they were to be left, what was the condition of the top of the box—I mean by that were the boards on it in place?

Mr. KENNEDY. When I left it after placing it in this room?

Mr. VERTREES. Yes.

Mr. KENNEDY. They were in place, but they were not nailed.

Mr. VERTREES. But you have stated that some of them, at any rate, were not nailed?

Mr. KENNEDY. Some of them were not nailed.

Mr. VERTREES. How many boards were there constituting the top in place?

Mr. KENNEDY. I think, but I won't say for sure, I think, offhand, there were three boards nailed and two off.

Mr. VERTREES. That is your recollection of the matter?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Was there any other matter or thing that you know about it, in any way?

Mr. KENNEDY. No, sir. I do not recall anything else that I know about it.

Mr. MADISON. You say that the box was in the corridor at one time; I understood you to say that?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. When was it that the box was in the corridor?

Mr. KENNEDY. Why, to explain that, when the things came up from the depot, the federal building was not completed and we did not have offices there; we had one small office for the whole outfit, and the custodian, I think, told me to leave it down in the basement until they got straightened up, in the corridor.

Mr. MADISON. In order that I may get the date straight in my mind, they were shipped from Portland to Seattle?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. And about what time?

Mr. KENNEDY. That would be, I think, about March 1, 1909.

Mr. MADISON. And they were taken from the depot in Seattle to the corridor or basement of the federal building?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. And then how long afterwards until they were removed to the grand jury room?

Mr. KENNEDY. I do not know how long. Some of the other agents got them, or the custodian, I do not know which, and took them up to the grand jury room, or perhaps Mr. Glavis.

Mr. MADISON. You do not know when that was done?

Mr. KENNEDY. No, sir.

Mr. MADISON. But you saw them later in September, about the 23d or 24th?

Mr. KENNEDY. No, sir; I brought the key back that day.

Mr. MADISON. You saw them about two days after the 23d?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. All right, that is straightened out.

Mr. VERTREES. Do you know when these letters that we have been speaking about were brought down from Juneau by Mr. Bowman?

Mr. KENNEDY. No, sir; I was in Alaska at the time.

Mr. VERTREES. It was some time after this time you have mentioned about seeing the box in the corridor, or, to be specific, was it not in August?

Mr. KENNEDY. It must have been about August. He was up there about that time.

Senator PURCELL. When did Mr. Glavis leave the service?

Mr. VERTREES. On the 18th of September, 1909. That is all.

Mr. BRANDEIS. I will now call Mr. Barr.

The CHAIRMAN. Do you want this witness any more?

Mr. VERTREES. He is to appear with a letter in the morning.

Mr. GRAHAM. Mr. Chairman, what course will be pursued with reference to Mr. Kennedy's testimony that is in the record? How soon will we get to see it?

The CHAIRMAN. I suppose that comes in on the other side after this side is through.

Mr. GRAHAM. The thought in my mind was that it might be——

The CHAIRMAN. Do you mean Kennedy's testimony?

Mr. GRAHAM. Yes, sir.

The CHAIRMAN. I suppose it will be printed by to-morrow morning.

Mr. GRAHAM. It may be that there are some things that may not be referred to in it with reference to the extent, value, and situation of the coal fields there, that is not covered by that testimony, that we might want to ask about.

The CHAIRMAN. That will be printed as separate paper for the use of the committee, as I understand it.

Senator PURCELL. Do you mean his testimony?

The CHAIRMAN. No; these reports that have come in.

Senator PURCELL. He was speaking about his testimony to-day.

Mr. GRAHAM. No; I am speaking of the testimony that he told us about giving in the Cunningham cases at Seattle.

The CHAIRMAN. I presume that is in these copies that we had this morning that were offered in evidence to be printed as a separate document.

Mr. GRAHAM. Personally, I would like to see it, so as to know whether there are any additional facts concerning the condition and extent of the coal there that we might want to inquire about.

The CHAIRMAN. That report is in evidence. That is admitted.

Mr. GRAHAM. These reports do not cover that, as I understand it.

The CHAIRMAN. No; but these reports were put in this morning, as you will remember. They were copies of the testimony taken by the commissioner, and I presume they are in these copies that were sent up by the Agricultural Department.

Mr. OLMSTED. Mr. Graham wants to know how soon that will be printed.

The CHAIRMAN. I am unable to speak for the Government Printing Office.

Mr. VERTREES. I will say, Mr. Chairman, that the report of Mr. Fisher, of the Geological Survey, is a very elaborate report. I called for that to be printed also with Mr. Kennedy's and Mr. Wingate's that I offered a while ago.

Mr. BRANDEIS. It will be printed as a part of the testimony in the regular order.

Mr. VERTREES. I think they will answer every question, especially Mr. Fisher's, as to coal entries in Alaska.

The CHAIRMAN. Those reports will all be printed.

Mr. GRAHAM. That is what I wanted to get at.

TESTIMONY OF W. W. BARR.

W. W. Barr, having been first duly sworn by the chairman, testified as follows:

Mr. BRANDEIS. Your full name, Mr. Barr?

Mr. BARR. William W. Barr.

Mr. BRANDEIS. Your residence?

Mr. BARR. Seattle, Wash.

Mr. BRANDEIS. What is your business?

Mr. BARR. The lumber business.

Mr. BRANDEIS. How long have you been engaged in that business?

Mr. BARR. About seven years.

Mr. BRANDEIS. You are acquainted with L. R. Glavis, are you, Mr. Barr?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. How long have you known him?

Mr. BARR. Since the fall of 1906, I think.

Mr. BRANDEIS. You are on friendly terms with him, are you?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. You have heard the testimony this afternoon of Mr. Kennedy, have you not, with regard to a certain box in which

papers of Mr. Glavis, or papers of the Land Office, were said to have been found?

Mr. BARR. I heard part of it.

Mr. BRANDEIS. And it referred specifically to a box that was in the executive committee room of this committee—that is, the room where executive sessions are held?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. Now, had you ever seen that box before?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. When?

Mr. BARR. It was at the time—it was some time just before Mr. Glavis started east.

Mr. BRANDEIS. Started east? When, before or after he was dismissed from the service?

Mr. BARR. After his dismissal.

Mr. BRANDEIS. And it was after his dismissal in September, which appears in date to have been September 18, 1909, and was shortly after that time?

Mr. BARR. I think so; yes, sir.

Mr. BRANDEIS. Now, will you state to the committee fully the circumstances under which you saw that box?

Mr. BARR. Mr. Glavis had been talking about this polar bear skin that he had and wanted me to see it, and I think we were at the Arctic Club one day at lunch—

Mr. BRANDEIS. The Arctic Club at Seattle?

Mr. BARR. Yes, sir; and we went up there from lunch and went into the grand jury room, where this was.

Mr. BRANDEIS. You went up with Mr. Glavis?

Mr. BARR. Yes.

Mr. BRANDEIS. He had a key at that time, had he not?

Mr. BARR. Yes, sir.

Senator FLINT. What date was that?

Mr. BARR. I do not recollect the date exactly.

Mr. BRANDEIS. He testified that it was shortly after Mr. Glavis was dismissed from the service.

Mr. BARR. And we went up to the grand jury room there and I saw the rug, and we sat up there and talked a few minutes; I believe he showed me some other articles; I do not know what it was; it was a copy of the log from the ship *Christopher Columbus*. He had a copy of the log there.

Mr. BRANDEIS. You say he showed it to you. Where did he get it—did you see where he got it from?

Mr. BARR. He took it out of that box, I think.

Mr. BRANDEIS. He took it out of this box. Was the box open at the time?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. What was the general appearance of the articles in the room? How were they lying around? What else did you see? How did it look?

Mr. BARR. I recall that the bear skin was on this grand jury table. I think the other skin was there too, and some law books.

Mr. BRANDEIS. What other skin do you refer to?

Mr. BARR. A black bear skin mounted, laid on the floor, and some barrels. That was about all I can recall.

Mr. BRANDEIS. Were there any books?

Mr. BARR. There were some books, yes, sir; lying on the table.

Mr. BRANDEIS. Do you recall what they were?

Mr. BARR. No, sir; I do not recall about them.

Mr. BRANDEIS. What was the general appearance of that box? Was it carefully packed, or full, as you saw it?

Mr. BARR. No, sir; I recall that it had been partially emptied.

Mr. BRANDEIS. It had been emptied?

Mr. BARR. Partially emptied.

Mr. BRANDEIS. And how did the books look with reference to the covering, the boards on it? Were the boards lying on it?

Mr. BARR. No, sir; I think part of the boards had been removed. I do not recall exactly.

Mr. BRANDEIS. That is, you are sure that it was not open? Was it nailed, too, when you saw it at any time?

Mr. BARR. No, sir.

Mr. BRANDEIS. It was not closed. Now, did you leave there together?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. Did you take anything, or try to take anything from the room?

Mr. BARR. No, sir; not that I saw.

Mr. BRANDEIS. Did either of you put anything into it?

Mr. BARR. No, sir.

Mr. BRANDEIS. And that you say was between the time that Mr. Glavis was discharged from the service and the time that he left for the East?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. And you are unable to fix the exact date?

The CHAIRMAN. You did not answer one part of the question. Was there anything put into the box?

Mr. BARR. No, sir; I did not see him put anything into the box. I believed I answered that question.

Mr. BRANDEIS. Is there anything else with regard to the room, the appearance of it, the box, or anything else that you recall?

Mr. BARR. I think not.

Mr. BRANDEIS. And the only thing that you recall his taking out of the box at all was this copy of the Columbus Log, which he showed you?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. Was that put back into the box again after it was shown to you?

Mr. BARR. I think it was.

Mr. BRANDEIS. Now, did you about that time have any conversation with Mr. Glavis, or hear any conversation in connection with the papers that he had delivered over—with the delivery over of papers to his successor upon his leaving the service?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. Where was that conversation that you heard?

Mr. BARR. It was in my office.

Mr. BRANDEIS. In your own office?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. It was a conversation with Mr. Glavis?

Mr. BARR. I had a conversation with Mr. Glavis.

Mr. BRANDEIS. And that conversation with Mr. Glavis led to something else being done, did it?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. What was that other thing that it led to?

Mr. BARR. It led to a talk over the telephone with Mr. Christensen.

Mr. BRANDEIS. Between whom?

Mr. BARR. Between Mr. Glavis and Mr. Christensen.

Mr. BRANDEIS. Did you hear that conversation?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. How did you hear it?

Mr. BARR. On one of the office extensions.

Mr. BRANDEIS. You had an extension from the outer office into your office?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. Then Mr. Glavis was talking from the outer office?

Mr. BARR. No, sir; he was talking from my office. I was in the outer office.

Mr. BRANDEIS. Will you tell us what your conversation was, first, the conversation with Mr. Glavis which led later to the conversation with Mr. Christensen?

Mr. BARR. Why, he came into the office sometime in the afternoon; I think it was after lunch and had spoken of turning his papers over to the office.

Mr. BRANDEIS. That is, to Mr. Christensen?

Mr. BARR. Yes, sir; and some time before he had talked of having receipts prepared, and I asked him at that time if he had taken receipts for the papers that he had turned in, as they were final papers, and he said no, and I told him I thought he had made a mistake in that; that I thought he should take receipts for everything he had turned in. Then he mentioned about some papers or circulars that he had copied that he thought were immaterial.

Mr. BRANDEIS. What were they?

Mr. BARR. As he explained, some circulars—land office circulars and decisions which he had bound in a portfolio or scrapbook, and he said he thought they were his property and he could keep those, and I told him at the time that he had better call up Mr. Christensen and ask him, and if any question came up afterwards about it he would be absolutely free on it, and he did call up Mr. Christensen, and I believed I suggested at that time, when he was talking to Mr. Christensen, to ask him about the other papers.

Mr. BRANDEIS. What do you mean by "about the other papers?"

Mr. BARR. About the other papers—the papers that he had turned over in the morning to him.

Mr. BRANDEIS. What was the conversation that you then heard?

Mr. BARR. He spoke about this portfolio, and then asked Mr. Christensen, as near as I can remember, whether he had been over the other papers and found them all right, and Mr. Christensen replied that he had. That is all of the conversation that I can remember.

Senator ROOT. Was this a telephone conversation?

Mr. BARR. It was over the telephone; yes, sir.

Senator ROOT. How did you hear what Mr. Christensen said?

Mr. BARR. I was listening over an extension. There are two telephones in the office.

Senator FLETCHER. What did he say about the circulars?

Mr. BARR. Mr. Christensen—do you mean what he said about the circulars?

Senator FLETCHER. Yes.

Mr. BARR. He said it did not make any difference whether Mr. Glavis kept them or not; practically, that he could keep them.

Mr. BRANDEIS. That is all I care to ask.

Mr. MCCALL. Was it at your own suggestion or idea that you went to the telephone to listen to this conversation?

Mr. BARR. I think so.

Senator PURCELL. You did that for the purpose of having Mr. Christensen—or of supporting Mr. Glavis, in case it was necessary, as to whether or not he had turned over those papers?

Mr. BARR. Yes, sir.

Mr. GRAHAM. In other words, it was a sort of substitute for a receipt from Christensen?

Mr. BARR. Yes, sir; he reported that he did not have any receipt, and I thought he had fallen down on it, and that he should have receipts for his papers.

Mr. MADISON. Mr. Barr, what is your business?

Mr. BARR. I am in the timber business.

Mr. OLMSTED. What do you mean by the timber business?

Mr. BARR. Buying and selling timber.

Mr. OLMSTED. Standing timber?

Mr. BARR. Yes, sir.

Mr. MADISON. How long have you been engaged in that business?

Mr. BARR. About seven years.

Mr. MADISON. What is your age?

Mr. BARR. Thirty-one. I will be 31 in April.

Mr. DENBY. What occurred over the telephone, Mr. Barr; what was the language in which the suggestion as to the papers was made and the reply of Mr. Christiansen?

Mr. BARR. In regard to the papers that Mr. Glavis had left there?

Mr. DENBY. Yes; I do not mean in regard to the portfolio, but with regard to the papers that were left there in the morning.

Mr. BARR. Why, that Mr. Glavis simply asked whether he had gone over those papers and found them all right, and I understood from the conversation that was taking place between Mr. Glavis and Mr. Christiansen that the papers had been accounted for and were there.

Mr. OLMSTED. Just what did Mr. Glavis say? Give us his language.

Mr. BARR. I could not recall his conversation word for word as it took place over the phone.

Mr. OLMSTED. Do you recall any part of it?

Mr. BARR. Not any more than about what he asked Mr. Christiansen about this portfolio and about the papers that he had left there, and that he found them all right.

Mr. DENBY. Was it that that he said, "Were the papers I left there all right?"—was it in that kind of language?

Mr. BARR. Yes, sir; in that instance.

The CHAIRMAN. He did not specify what papers, did he?

Mr. BARR. No, sir; he did not specify any papers.

The CHAIRMAN. Simply the papers that had been left there that morning?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. And that conversation took place wholly at your suggestion?

Mr. BARR. I think so.

Senator FLINT. For my information, I would like to ask counsel if Mr. Glavis had testified anything about this conversation on his direct examination?

Mr. BRANDEIS. No, sir; I did not ask him as to that.

Senator FLINT. This is the first time that this conversation has appeared in the testimony?

The CHAIRMAN. Yes; this is the first time.

Mr. MADISON. Do you remember what that date was?

Mr. BARR. No, sir; I do not. I think it was on Monday. I do not know the date, but I think it was on Monday.

Mr. MADISON. On the Monday that Mr. Glavis had been dismissed from the service?

Mr. BARR. Well, it was when Mr. Glavis was closing up the office or turning over the office.

Mr. DENBY. You have personally no idea of what those papers were, have you?

Mr. BARR. No, sir.

Mr. OLMSTED. Mr. Barr, a little while ago you testified about certain things which Mr. Glavis showed to you, and when asked if he took them out of the box you said, "I think so." Do you know anything about it?

Mr. BARR. Well, I am positive that he went to the box and got this log sheet, or a copy, whatever it was.

Mr. OLMSTED. Did you see him take it out of the box?

Mr. BARR. Yes, sir.

Mr. OLMSTED. Did you see him put it back?

Mr. BARR. Yes, sir.

Mr. OLMSTED. Well, why did you simply say "I think so?"

Mr. BARR. I do not know of any special reason for having said that I thought so.

Mr. OLMSTED. Did you take any particular pains to see whether he did take anything out of the box, or what he took out, or whether he put anything in?

Mr. BARR. I recall his going over to the box and getting those for me, saying that he wanted to show those to me. I had not any special reason for observing strictly what his movements were there.

The CHAIRMAN. How came you to suggest to Mr. Glavis that he have this conversation with Mr. Christensen? What induced you to have him take that precaution?

Mr. BARR. Well, he had been talking about these papers and having certified copies made of them, and said that he had some of the papers in his room, and was turning them back, and he had spoken previously of wanting receipts for all of his papers; he had talked this thing over from time to time with me, but when he came down and said that he had not got any receipts for his papers, I thought he should have done so as long as he was turning over everything in that way.

Mr. GRAHAM. Mr. Barr, when he went to the box to get the log, how near were you to him and to the box at that time?

Mr. BARR. I think I was standing between the table—between the table and the box.

Mr. GRAHAM. Put it in feet; about how far away from the box were you and from him?

Mr. BARR. I do not think over 4 or 5 feet from the box.

Mr. GRAHAM. What opportunity had you to see him at the box and what he did at that time?

Mr. BARR. I had every opportunity; I was in full view.

Mr. GRAHAM. Was there anything else at the time attracting your attention, or were you giving your entire attention to him and this paper?

Mr. BARR. If he was talking to me I was probably giving him attention.

Mr. GRAHAM. What I want to know is the probability of his taking out or putting anything into the box, except this log, and whether you would have noticed it if he had done so?

Mr. BARR. I think I would have noticed it if he had put anything in there.

Mr. BRANDEIS. You are absolutely certain that the box was open?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. And you are absolutely certain that it remained open when you left the room?

Mr. BARR. Yes, sir.

The CHAIRMAN. Have you any questions to ask, Mr. Vertrees?

Mr. VERTREES. I thought I would question some. When you say, Mr. Barr, that the box was open, do you mean that it was wholly open or partly open?

Mr. BARR. I think there had been two or three boards removed from it.

Mr. VERTREES. You mean there were some boards that had been removed and some that were on it.

Mr. BARR. Yes, sir.

Mr. VERTREES. You say that you did not see this man put anything there or take anything out of there? Do you not know, as a matter of fact, that he had a key to that room and took you up there, and let you in with the key?

Mr. BARR. Yes, sir; he had a key at that time.

Mr. VERTREES. And he could have gone without you at other times, could he not?

Mr. BARR. That would have been possible; yes, sir.

Mr. VERTREES. When was this?

Mr. BARR. This was just before Mr. Glavis started east. I do not know the date.

Mr. VERTREES. How long after he had been discharged—one, or two, or three weeks?

Mr. BARR. I do not know; I think it was about a week after his dismissal—a week or two.

Mr. VERTREES. You say a week, or a week or two. I would like to have you state some time, and be as definite as you can about that; just how much intervened between his discharge and the date of that conversation—I mean that going in and looking at that bear skin?

Mr. BARR. Why, it was shortly before Mr. Glavis started east; that is the only way I have of fixing the date.

Mr. VERTREES. Do you know when he started east?

Mr. BARR. No, sir; I do not.

Mr. VERTREES. What length of time?

Mr. BARR. It was about the time that Mr. Kennedy or around the time that Mr. Kennedy came back from Alaska.

Mr. VERTREES. I know, but what I am trying to get at is to have you give us your best judgment as to how long it was after his discharge, whether it was one, two, or three weeks; just give us the best estimate that you can.

Mr. BRANDEIS. Is your question only to give it in weeks?

Mr. VERTREES. I am talking of weeks now, I may get a little closer down by and by.

Mr. BARR. I do not recall the exact date that Glavis was dismissed.

Mr. VERTREES. Well, let us say it was the 18th of September.

Mr. BARR. It must have been about a week later.

Mr. VERTREES. You think it was something like the 25th of September?

Mr. BARR. Somewhere around that date.

Mr. VERTREES. As your memory goes?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. What are your business relations with Mr. Glavis?

Mr. BARR. I have no business relations with Mr. Glavis.

Mr. VERTREES. Have you any business understanding with him, or have you had any, as to reporting to you as to claims that were cancelled—contests where timber scrip could be located?

Mr. BARR. No, sir.

Mr. VERTREES. There was never anything like that?

Mr. BARR. We have lately; yes, sir.

Mr. VERTREES. What is lately?

Mr. BRANDEIS. Do you mean by "lately" since his discharge?

Mr. BARR. Yes, sir.

Mr. VERTREES. I believe I would rather you would allow me to examine him, Mr. Brandeis.

Mr. BRANDEIS. I should be glad to do so.

Mr. VERTREES. What is that agreement, Mr. Barr?

Mr. BARR. I had Mr. Glavis look up some things in Lewis County for me, and I am making arrangements to secure it on a contest.

Mr. VERTREES. What are those things that he is looking up for you?

Mr. BARR. The State's indemnity selections.

Mr. VERTREES. Did not Mr. Glavis, or did you not have an understanding with him that should acquaint you with these cases in which there were contests and likely to be cancellations?

Mr. BARR. No, sir.

Mr. VERTREES. So that you could locate scrip on the public timber lands?

Mr. BARR. No, sir.

Mr. VERTREES. And for a consideration of so much per acre for each one—\$2 an acre to him to be paid to you?

Mr. BARR. No, sir.

Mr. VERTREES. Have you not made statements to that effect?

Mr. BARR. No, sir.

Mr. VERTREES. Or anything like that?

Mr. BARR. No, sir.

Mr. VERTREES. And you made no such statements?

Mr. BARR. No, sir.

Mr. VERTREES. Were you to pay him anything for his services?

Mr. BARR. In connection with these indemnity selections?

Mr. VERTREES. Yes.

Mr. BARR. Why, he was to have an interest in it.

Mr. VERTREES. Well, what?

Mr. BARR. I think he was to have a half interest.

Mr. VERTREES. You say you think; you are a little indefinite about his having half of it, are you? When did you make that agreement, Mr. Barr?

Mr. BARR. In November.

Mr. VERTREES. Last year?

Mr. BARR. Yes, sir.

Mr. VERTREES. In November, 1909?

Mr. BARR. Yes, sir.

Mr. VERTREES. Was it not made a little before that?

Mr. BARR. No, sir.

Mr. VERTREES. But it was made in November. Just state the terms of that agreement and the understanding; how extensive that contract was, and what are you to do.

Mr. BARR. Well, there is some timber down there in Lewis County that has been selected by the State, and I had never been able to get a hold of any of these; and I told Mr. Glavis if he would go and look it up, and if he was successful in getting the timber land that I would give him half interest in the net profits.

Mr. VERTREES. Who was to pay for it?

Mr. BARR. Pay for what?

Mr. VERTREES. Furnish the necessary funds.

Mr. BARR. I was.

Mr. VERTREES. And Glavis was to get a half interest?

Mr. BARR. Yes, sir.

Mr. VERTREES. When were those indemnity selections filed, Mr. Barr?

Mr. BARR. I do not know.

Mr. VERTREES. Don't you know that they were filed prior to the 18th of September, 1909?

Mr. BARR. I presume they were.

Mr. VERTREES. Don't you know they were filed a good deal before that?

Mr. BARR. Yes, sir.

Mr. VERTREES. And don't you know that Mr. Glavis was in a situation to have knowledge of these claims by virtue of his position as special agent?

Mr. BARR. Yes, sir; by virtue of his position, he was possibly able to get that information.

Mr. VERTREES. Not only possible, but he was in a situation to get it, was he not?

Mr. BARR. Yes, sir.

Mr. VERTREES. And when he went out in September, in November you made this agreement with him that this land of that character that could be gotten, you would furnish the money, and the profits would be divided equally. That is right, is it?

Mr. BARR. How is that, that we would divide the profits equally?

Mr. VERTREES. Yes; if you could acquire this land of that character and be successful in it?

Mr. BARR. Yes, sir; but I believe I wrote Mr. Glavis; I called his attention to it, and got him to go down and look this information up.

Mr. VERTREES. Yes; I understand. Well, as far as the matter progressed up to date, what have you gotten?

Mr. BARR. I have not gotten anything.

Mr. VERTREES. You are still working at it?

Mr. BARR. Yes, sir.

Mr. VERTREES. The agreement is still in force?

Mr. BARR. Yes, sir.

Mr. VERTREES. Did you ever go down and look at anything else in that room except on this one occasion, Mr. Barr?

Mr. BARR. No, sir.

Mr. VERTREES. And he took you down to show you the bearskin?

Mr. BARR. Yes, sir.

Mr. VERTREES. And he showed you the ship's log?

Mr. BARR. Yes, sir.

Mr. VERTREES. And you have never been back since?

Mr. BARR. No, sir.

Mr. VERTREES. I wish to ask you something about that telephone conversation. As I understand, it was a voluntary act on your part, listening to the conversation?

Mr. BARR. I think so.

Mr. VERTREES. And you did it purposely with a view of being a witness for Mr. Glavis in the event any question came up about the papers, as I understand you?

Mr. BARR. Well, it did not occur to me at that time.

Mr. VERTREES. How came he to advise with you about the papers, as to taking receipts and the necessity of it?

Mr. BARR. Mr. Glavis talked with me.

Mr. VERTREES. He talked with you. Was he in the habit of advising with you about his affairs?

Mr. BARR. I do not know.

Mr. VERTREES. Yes, you do know whether he was or not.

Mr. BARR. Mr. Glavis and I had always been very friendly, and he often talked over matters.

Mr. VERTREES. Was he in the habit of advising with you as a confidential friend?

Mr. BARR. Yes, sir.

Mr. VERTREES. Do I understand your relation to be one of rather peculiar friendship and confidence?

Mr. BARR. No, sir; not any more than I told him my affairs.

Mr. VERTREES. You were mutual confidants?

Mr. BARR. Yes, sir.

Mr. VERTREES. And each knew the other's affairs and secrets. Is that right?

Mr. BARR. No, sir; I do not know that I told him all my affairs.

Mr. VERTREES. You did not tell him all, but you did confide in him beyond the extent in which you confided in other people?

Mr. BARR. Yes, sir; Mr. Glavis has been my most intimate friend out there.

Mr. VERTREES. Your most intimate, and did he confide in you?

Mr. BARR. No, sir; not altogether.

Mr. VERTREES. So you confided in him, but he was not in the habit of confiding in you? Was that the situation?

Mr. BARR. Well, he did not discuss any personal affairs with me, and I did not with him, but there were some things that he came to me and talked about, but I do not know what they were.

Mr. VERTREES. You do not recollect it now, but you did hear something about taking copies of papers; he told you something about that, did he?

Mr. BARR. Yes, sir.

Mr. VERTREES. What did he tell you about that?

Mr. BARR. He spoke of having copies made of some of the papers that he thought were necessary for him to have to protect himself.

Mr. VERTREES. He thought they were papers that he ought to have to protect himself?

Mr. BARR. Protect his own interests.

Mr. VERTREES. What were those interests that were to be protected?

Mr. BARR. I do not know.

Mr. VERTREES. He did not state that?

Mr. BARR. No, sir.

Mr. VERTREES. When was it that he told you that it was necessary to have those copies of certain papers to protect his own interests?

Mr. BARR. I think it was some time right after his dismissal.

Mr. VERTREES. You say some time. That is very indefinite.

Mr. BARR. Well, I can not testify to things that he told me in a conversational way.

Mr. VERTREES. Did he admit to you after his dismissal, and after he left there, that he had taken copies of certain papers which he regarded as essential to protect his interests?

Mr. BARR. Yes, sir.

Mr. VERTREES. How many copies did he say he had taken?

Mr. BARR. I do not recollect.

Mr. VERTREES. Two?

Mr. BARR. I do not recollect.

Mr. VERTREES. Three?

Mr. BARR. I do not remember how many.

Mr. VERTREES. How many of those papers were there, did he say?

Mr. BARR. No, sir; I do not recollect that he told me.

Mr. VERTREES. Did he describe any of them?

Mr. BARR. I do not remember his describing any of them.

Mr. VERTREES. What were these interests that it was necessary for him to protect, Mr. Barr? You were friends, and talked and advised with each other. Now, tell us the interests which it was necessary for him to protect, or which he thought it was necessary for him to protect?

Mr. BARR. I do not know that I can recall those.

Mr. VERTREES. Did he mention any of them at all?

Mr. BARR. He may have mentioned them.

Mr. VERTREES. Now, just think and ransack your memory and see if you can not tell us? He may have done so. It looks like the relation was such that he would have done it. You were so much interested in him that you would listen at the telephone to bear him out in testifying. Now, see if you can not tell us what it was, the interests that he wanted to protect, and felt like he ought to protect, by keeping those copies?

Mr. BARR. No, sir; I do not remember the papers.

Mr. VERTREES. Not the papers, but the interests; the things that he wanted to protect?

Mr. BARR. No, sir; I do not remember.

Mr. VERTREES. You do not remember?

Mr. BARR. No, sir; I do not.

Mr. VERTREES. Did he state it to you?

Mr. BARR. He may have stated it to me.

Mr. VERTREES. Now, when you say he may, you mean by that, do you not, that your best impression is that he did state the interests, and you have forgotten just what the statement was. Do you not mean that?

Mr. BARR. Yes, sir.

Mr. VERTREES. So it comes down to this, that you tell the committee that it is your recollection—the best impresssion that you have—that he did state to you what the interests were that he wished to protect?

Mr. BARR. No, sir.

Mr. VERTREES. Did you not say that awhile ago?

Mr. BARR. I do not remember just what I said.

Mr. VERTREES. Did you not say it a minute ago, and that your only difficulty was that you could not recall what it was that he told you? Or, to state it again, did you not say awhile ago to this committee he did state to you the interests which it was his desire to protect, as you best recollected it, but you were unable to recall what the statement was. Did you not make that statement?

Mr. BARR. I think I did; yes, sir.

Mr. VERTREES. That is so, is it not, and you wish the committee to understand that that is the truth?

Mr. BARR. Yes, sir.

Mr. VERTREES. Now, can you recall what that statement was, with regard to that conversation that you were listening to over the telephone, and go ahead and testify to it as to what the statement was. Now, can you not tell this committee what it was?

Mr. BARR. No, sir.

Mr. VERTREES. You can not do that?

Mr. BARR. No, sir.

Mr. VERTREES. Well, it related to the Government in some way, and his relation to it, did it not?

Mr. BARR. I presume so; yes, sir.

Mr. VERTREES. You presume. Don't you know?

Mr. BARR. Not positively; no, sir. I know that they were papers in connection with the report. That is about all.

Mr. VERTREES. Now, what in the matter of his conduct, or anybody else's conduct, did it relate to; that is, that these papers related to?

Mr. BARR. It must have been in connection——

Mr. VERTREES. Not must have been. Do not reason about it. I am on your memory now. Do you recollect?

Mr. BARR. No, sir; I do not.

Mr. VERTREES. And can not give the slightest impression about it?

Mr. BARR. No, sir.

Mr. VERTREES. It has faded entirely from your memory?

Mr. BARR. Yes, sir.

Mr. VERTREES. Well, I will ask you, then, if I can refresh your memory perhaps by a question, whether or not he was going to protect himself by holding some papers on somebody else.

Mr. BARR. No, sir.

Mr. VERTREES. So that he could defend himself?

Mr. BARR. No, sir; I do not think so.

Mr. VERTREES. You do not think that?

Mr. BARR. No, sir.

Mr. VERTREES. You are pretty positive about that, are you not, Mr. Barr?

Mr. BARR. Well, I do not think Mr. Glavis would do that.

Mr. VERTREES. I am not on that; I am on your memory now. What do you recall as to what happened; whether it was that character of thing or not, namely, that he wished to have some papers that he could hold in some way to protect himself against somebody else in the government service?

Mr. BARR. No, sir; I do not recall it.

Mr. VERTREES. You can not recall that?

Mr. BARR. No, sir.

Mr. VERTREES. And while you do remember that he told you that there was an interest of some sort that he wanted to keep copies of papers to protect, it is utterly beyond your power to recall what that interest was?

Mr. BARR. Yes, sir.

Mr. VERTREES. Or its nature?

Mr. BARR. Yes, sir.

Mr. VERTREES. Or its character?

Mr. BARR. Yes, sir.

Mr. VERTREES. Further than that it related to the Government in some way, or his official relations that had been severed?

Mr. BARR. Yes, sir.

Mr. VERTREES. Now, was this before or after his discharge?

Mr. BARR. I do not know; I think it was after, but I am not positive.

Mr. VERTREES. It may have been before, or it may have been afterwards, but your best recollection is that it was after?

Mr. BARR. I think so.

Mr. VERTREES. And before you left there?

Mr. BARR. I think so.

Mr. VERTREES. And how long did he stay after his discharge?

Mr. BARR. I think about a week or ten days.

Mr. VERTREES. So it was in that interval of a week or ten days?

Mr. BARR. Yes, sir.

Mr. VERTREES. Have you any papers or memoranda that would revive your recollection in any way about that matter? Did you and Mr. Davis make any affidavits there as to that conversation?

Mr. BARR. No, sir.

Mr. VERTREES. Did he ask you?

Mr. BARR. I do not think he did.

Mr. VERTREES. Did you report to him that you were eavesdropping at the other end of the wire—did you tell him that?

Mr. BARR. He must have known it. He was right there.

Mr. VERTREES. Did he ask you to do it?

Mr. BARR. No, sir; I think I volunteered to do it.

Mr. VERTREES. Do you know whether he knew you were, or not?

Mr. BARR. I think he did; yes, sir.

Mr. VERTREES. What makes you think so? Did you tell him? Did you and he talk about it?

Mr. BARR. We must have talked about it.

Mr. VERTREES. You say "must." I ask you to try and remember if you did or not, and not reason with me about it.

Mr. BARR. Yes, sir; I think we did talk about it right afterwards.

Mr. VERTREES. What was the talk?

Mr. BARR. I do not know that I recall it exactly.

Mr. VERTREES. And that was afterwards—after you listened?

Mr. BARR. Yes, sir.

Mr. VERTREES. Well, what was it? Did you tell him that you had or did he express his gratification that you had?

Mr. BARR. No, sir; I do not think he did.

Mr. VERTREES. Well, what was the talk; you say there was some talk; you recollect that?

Mr. BARR. Well, I do not know that I recall this conversation that took place after that.

Mr. VERTREES. You can not recall that, either; that has faded like an unsubstantial pageant. You say he told you that he had given up all the papers without taking any receipt at all?

Mr. BARR. I think that is what I said, yes, sir; he had not got any receipt.

Mr. VERTREES. Do you not know, in point of fact, that Mr. Glavis was for two or three days writing receipts, or that they were writing receipts of many pages, and that the difficulty and the delay was in the preparation of those receipts and that he was insisting tenaciously for receipts all the time, and was getting them?

Mr. BARR. I thought that he had not gotten receipts for them.

Mr. VERTREES. You are here to-day under the impression that he got no receipts for the papers that he turned over? Is that right?

Mr. BARR. Yes, sir; I think so.

Mr. VERTREES. You had that impression, and you have got that impression from that conversation over that telephone?

Mr. BARR. Yes, sir.

Mr. VERTREES. And if there was any receipt given, it is known to you, is it?

Mr. BARR. Yes, sir.

Mr. VERTREES. And did he tell you he had gotten no receipts?

Mr. BARR. I do not know, but he told me outright, right there. that he had not gotten any receipts for the last papers that he had turned in.

Mr. VERTREES. What were those last papers?

Mr. BARR. I do not know.

Mr. VERTREES. Do you know anything about his being threatened both criminally and civilly if he did not turn in the papers?

Mr. BARR. No, sir.

Mr. VERTREES. You never heard about that?

Mr. BARR. No, sir.

Mr. VERTREES. Your friend Glavis did not tell you that?

Mr. BARR. No, sir.

Mr. VERTREES. You did not understand that there was any trouble at all. Is that right?

Mr. BARR. Yes, sir.

Mr. VERTREES. When you say last papers, you do not mean, do you, that he was turning in papers at different times, but in turning over the office and getting out of it. That is what you mean by last papers, is it not?

Mr. BARR. I understood that Mr. Glavis in going around the country had some papers with him, and these were some papers that he had collected in his room, or had got together and was taking back to the office.

Mr. VERTREES. Well, he was right there in the town at the very time of his dismissal, was he not?

Mr. BARR. I think so.

Mr. VERTREES. And he had not gone away, to your knowledge, and gotten any papers anywhere else, had he?

Mr. BARR. No, sir.

Mr. VERTREES. Whatever he had, he had there to turn over. Did you not understand that that was the situation, Mr. Barr?

Mr. BARR. Why, yes; I thought he had all his papers there. I presumed he did.

Mr. VERTREES. That he had all of them there; that was the impression you labored under at that time? Is it not also true that, laboring under that impression, when he told you that he had turned over the papers, that he had turned them all over without any receipts?

Mr. BARR. I think so; yes, sir.

Mr. VERTREES. You say you think; what I am getting at is your impression at that time that you were listening to this conversation. Now, in order that there may be no misunderstanding about it, I am going to repeat that, Mr. Barr, and see if I do understand you correctly. You at that time labored under the impression that Mr. Glavis had all the papers that he did have pertaining to his office there in town ready to turn over?

Mr. BARR. Why, yes, sir.

Mr. VERTREES. And that he had turned them all over, all that he had, but had turned them over without any receipt?

Mr. BARR. Yes, sir.

Mr. VERTREES. Now, he told you that, did he—and I mean by that, namely, that he had turned them over without a receipt, without taking any receipt for any of them?

Mr. BARR. No, sir; I do not know that he told me that. I do not know how he got—

Mr. VERTREES. That is what I am talking to you about. How did you get that impression?

Mr. BARR. I think the question that he had not taken a receipt for the papers was when he came into the office and said he had closed up, and made his last visit, and that he was through.

Mr. VERTREES. What was there about that to make you think that he had not taken any receipt? In the statement that you have given to the committee here I catch nothing to imply that.

Mr. BARR. I recall that he came into the office and said he had not taken a receipt for the papers.

Mr. VERTREES. That is what I am trying to get at. He did tell you that he had not taken a receipt for the papers? And had turned them all over and had not taken a receipt?

Mr. BARR. The papers that he had delivered that morning, I believe.

Mr. VERTREES. Did you not say awhile ago to the committee—

Mr. BARR. Not all the papers, because I did not know anything about all of his papers, but the papers that he turned over.

Mr. VERTREES. I do not mean those papers that he found. I understood you—and if I did not understand you correctly you may

correct me—I understood you to tell the committee a while ago that as you understood the situation it was this, that Mr. Glavis had all the papers pertaining to the office that were in his custody or possession there in the city, and that he had turned them all over to his successor, Mr. Christensen, but without taking any receipt. Did I understand you correctly? Did I understand you to say that?

Mr. BARR. Yes, sir; I think that is correct.

Mr. VERTREES. Now, I understand you to say that when he came in the office he told you that he had turned them over without taking a receipt?

Mr. BARR. Yes, sir.

Mr. VERTREES. That is right, is it?

Mr. BARR. I think that is it; yes, sir.

Mr. VERTREES. You recollect it in that way, do you?

Mr. BARR. Yes, sir.

Mr. VERTREES. Now, that was after he had finished up his papers and turned them all over and had taken no receipt?

Mr. BARR. Yes, sir.

Mr. VERTREES. And the thing was clear so far as you understood it, except the bad business proposition of turning over valuable papers without taking a receipt?

Mr. BARR. Yes, sir.

Mr. VERTREES. That was the situation?

Mr. BARR. Yes, sir.

Mr. VERTREES. Did you suggest to him to call them up and ask about it—call Mr. Christiansen up and ask about it, to the end that you might be a witness and hear whether or not Christiansen would acknowledge over the telephone that he had gotten them, although he had given no receipt?

Mr. BARR. No, sir; his talk came up, I believe, in connection with this book of circulars that he had—that he said he had turned in everything except that.

Mr. VERTREES. That was some printed matter.

Mr. BARR. I do not know; I never saw it. I presume——

Mr. VERTREES. Well, it was circulars anyway.

Mr. BARR. Yes, sir; or decisions.

Mr. VERTREES. And he said he had not turned them in?

Mr. BARR. Yes, sir.

Mr. VERTREES. And turned to the telephone and called Mr. Christiansen at your suggestion?

Mr. BARR. I believe I told him that he ought to ask Christiansen about it, whether he wanted them or not, or whether he should turn them in.

Mr. VERTREES. And at your suggestion he did go to the telephone, and when he went to one telephone you went to the other extension?

Mr. BARR. I think so; yes, sir.

Mr. VERTREES. You think so?

Mr. BARR. Yes, sir; I did.

Mr. VERTREES. Now, what did you say passed between him and Christensen; just state that exactly to this committee.

Mr. BARR. Well, he called the office and got Mr. Christensen on the phone and asked him about this portfolio and these Brown decisions or circulars and described it to him and asked him whether he

should turn that in or not, and I think Mr. Christensen said he did not think it was material that he should turn this portfolio in.

Mr. VERTREES. Was that a bound volume of papers, did you understand?

Mr. BARR. It was a sort of scrapbook. I never saw it.

Mr. VERTREES. And Mr. Christensen said he did not think that was necessary?

Mr. BARR. No, sir.

Mr. VERTREES. But, as I understand your answer, you did admit that something was said about a receipt over the telephone?

Mr. BARR. Nothing was said, I think, over the telephone about a receipt any more than Mr. Glavis asked, I think, if he had been over the papers and found them all right, and Mr. Christensen replied that he had.

Mr. VERTREES. Found them all right?

Mr. BARR. Yes, sir; they were the papers.

Mr. VERTREES. Did you hear anything from Christensen after he had gone over the papers personally, about delivering a letter to Mr. Glavis stating that he would be prosecuted criminally if he did not return certain papers?

Mr. BARR. No, sir.

Mr. VERTREES. You never heard of that?

Mr. BARR. No, sir.

Mr. VERTREES. Did you hear anything about Mr. Christensen on the 20th day of September writing a letter to Mr. Glavis specifying the certain twenty-four letters which he said were missing, and asking him about them?

Mr. BARR. I heard something about it at some place.

Mr. VERTREES. You heard about it lately, is that not so?

Mr. BARR. I do not know that I heard about that list of twenty-four letters.

Mr. VERTREES. When did you first hear of that? Did Mr. Glavis tell you about those letters?

Mr. BARR. I do not recollect whether he did or not.

Mr. VERTREES. I would like to have you ransack your memory on that point and say if Mr. Glavis never told you anything about them.

Mr. BARR. No, sir; I do not remember that he told me about it, whether I was told about it, or whether I saw it in the paper.

Mr. VERTREES. Can you give us any idea of who it was who told you about those twenty-four letters?

Mr. BARR. No, sir; I can not.

Mr. VERTREES. How long ago was it that you got your first information about them, Mr. Barr—how many months?

Mr. BARR. I do not recollect.

Mr. VERTREES. I know you do not recollect with definiteness, but approximately.

Mr. BARR. No, sir.

Mr. VERTREES. Was it last year or this year that you first heard of those letters?

Mr. BARR. I think I heard about those things some time in November or December.

Mr. VERTREES. That is what I was trying to get at.

Mr. BARR. Some time the last of the year.

Mr. VERTREES. You think it was last year—the latter part of last year, some time in November or December?

Mr. BARR. Yes, sir.

Mr. VERTREES. What did you hear about those?

Mr. BARR. It came out some way that there were some twenty-four or twenty-five letters missing.

Mr. VERTREES. I was asking you how you heard it.

Mr. BARR. I do not recollect where I heard it or how I heard it.

Mr. VERTREES. Did it come from the office there—Mr. Christensen's office, or from Mr. Glavis, or how did you know about it?

Mr. BARR. I do not recollect where I got it.

Mr. BARR. I do not recollect where I got it.

Mr. VERTREES. Did Mr. Christensen tell you they were missing or did Mr. Glavis tell you that Christensen was claiming that they were missing? That is what I want to get at.

Mr. BARR. I do not remember anything about that, where I got it or how I heard it.

Mr. VERTREES. What was it that you heard?

Mr. BARR. I may have read about it in the papers that those letters were supposed to be gone.

Mr. VERTREES. Now, you tell me you may have done it. I am asking you what you recollect?

Mr. BARR. I do not remember where it came from or how I got it.

Mr. VERTREES. You got it somewhere. Where do you think you got it?

Mr. BARR. I have no idea.

Mr. VERTREES. None at all?

Mr. BARR. No, sir.

Mr. VERTREES. You do not know whether you got it from Glavis or Christensen or from the papers?

Mr. BARR. No, sir.

Mr. VERTREES. Did you get it from Collier's Weekly anywhere?

Mr. BARR. It might be that I got it there.

Mr. VERTREES. You might have got it there. Did you and Mr. Glavis have any conversation about those extracts from certain of those 23 letters that appeared in Collier's?

Mr. BARR. No, sir.

Mr. VERTREES. What time of the day was it that you were listening at the telephone?

Mr. BARR. It was in the afternoon some time.

Mr. VERTREES. That is all.

Mr. OLMSTED. I want to ask the witness some questions. I do not quite understand about the land that you were to get under that agreement. How were you to acquire the title to that land?

Mr. BARR. The State owns some land out there. There had been other selections made in this way.

Senator FLINT. Other selections made how?

Mr. BARR. I say there had been other people who had got state selections where they did not have any title to them, and I suggested to Mr. Glavis to look this up.

The CHAIRMAN. Was it not your purpose to defeat the state indemnity selections, and in that way get that land?

Mr. BARR. From what I know of it the state has no right to it.

The CHAIRMAN. But was that not your purpose, to defeat the selections that the State had made so that you could show that the State had no right to those indemnity selections?

Mr. BARR. Yes, sir.

The CHAIRMAN. That was your object?

Mr. BARR. Yes, sir.

Mr. VERTREES. And then if you could defeat the right of the State, you intended to locate or scrip it in what way?

Mr. BARR. By scripping it.

The CHAIRMAN. By scrip?

Mr. BARR. Yes, sir.

The CHAIRMAN. What kind of scrip?

Mr. BARR. Is it necessary for me to say?

The CHAIRMAN. Yes. What kind of scrip?

Mr. BARR. Northern Pacific.

The CHAIRMAN. Northern Pacific lieu selection scrip?

Mr. BARR. Yes, sir.

The CHAIRMAN. Did you talk this over with Mr. Glavis, that you intended to get the land in that way?

Mr. BARR. Yes, sir.

Mr. VERTREES. There is one question that I would like to be permitted to ask.

The CHAIRMAN. Very well.

Mr. VERTREES. I want to ask you if several timber cruisers were not employed by Mr. Glavis while he was in the service on your recommendation more than once, and state the names.

Mr. BARR. Why, there were two.

Mr. VERTREES. I think Charles McGuire and H. P. Kennedy.

The CHAIRMAN. Were they in the government service or were they employed on his own account?

Mr. BARR. They were employed by Mr. Glavis.

The CHAIRMAN. Were they employed by the Government or for his own special benefit?

Mr. BARR. No; they were for the government service—the Land Office.

Mr. VERTREES. But on your recommendation?

Mr. BARR. Yes, sir; by his request. He asked me to get him two men.

Mr. VERTREES. He asked you to get them, and you recommended those two men as timber cruisers?

Senator FLINT. How much land did you acquire there, under some lieu selections or government land in any way, known as script?

Mr. BARR. I have no title to any.

Mr. GRAHAM. How is this material? It is all right to show his relationship to Mr. Glavis, but what right have we to go into his private business in this connection that has no relation to this inquiry, but the theory of which is that while he and Glavis were connected? He may testify this way or that to help his friends, but when you leave that and go into his private affairs, I ask what right have we to do that?

Senator FLINT. I will ask him one other question after I have asked him that.

Mr. BARR. I have not acquired title to any. The title has not been perfected.

Senator FLINT. How many selections have you made lately?

Mr. BARR. I could not say.

Senator FLINT. Locations of scrip, I mean.

Mr. BARR. I could not tell you as to that without going through my records.

Senator FLINT. About how many?

Mr. BARR. Why, not over four or five.

Senator FLINT. How many acres would that be?

Mr. BARR. I could not tell you exactly. I have no idea.

Senator FLINT. Do you not know whether it is a thousand or ten thousand?

Mr. BARR. Oh, yes, sir; it did not run up there.

Senator FLINT. Was it a thousand acres?

Mr. BARR. I think there are about 200 acres.

Senator FLINT. Two hundred acres all you have made in selections of any kind?

Mr. BARR. No, sir; this last piece that I was just asked about. These last selections contained 700 acres, I think.

Senator FLINT. So it is in the neighborhood of a thousand acres altogether?

Mr. BARR. Yes, sir.

Senator FLINT. Where did you get your information upon which you located?

Mr. BARR. I picked up part of it in the regular routine of my business—from my men out on the field.

Senator FLINT. Where did you get the rest of the information?

Mr. BARR. By looking at the records.

Senator FLINT. By looking over the records; that and in the regular course of business are the only sources from which you received information with reference to the location of this scrip?

Mr. BARR. Yes, sir.

The CHAIRMAN. You stated that you intended to get this land, this lieu land, from the Northern Pacific selection?

Mr. BARR. Yes, sir.

The CHAIRMAN. Do you not know that that law was repealed three or four years ago, allowing lieu selections and——

Senator PURCELL. Oh, no.

Mr. MADISON. Let him answer the question.

The CHAIRMAN. Do you know that that law as to lieu land selection under the forestry law was repealed?

Mr. BARR. No, sir.

Mr. GRAHAM. I want to emphasize this, Mr. Chairman, as it is a precedent, that when other witnesses come on the stand, any gentleman who wishes to will have a right under this precedent to question them as to their private business, as far as they please. This is a precedent, and I want to call attention to it in that regard. It will come back to plague us.

The CHAIRMAN. Let me ask you this; as I understand, you and Mr. Brandeis are through with the witness for to-night. Let me ask you if you intend to proceed in the morning, Mr. Brandeis. Have you any more witnesses?

Mr. BRANDEIS. I think I shall have more. I have some other testimony.

Mr. MADISON. I want to ask the witness a question.

Senator PURCELL. And so do I.

Mr. MADISON. I do not understand about this Northern Pacific scrip, and I want to know about it; what is it?

Mr. BARR. Why, it is lieu selections that they have got for sale there.

Mr. MADISON. How is that?

Mr. BARR. It is scrip that they have for sale, and anything that is vacant land, if you have the price, you can buy; you can buy the scrip and place it on this land and take it.

Mr. MADISON. It is the scrip that belongs or issues to the railroad?

Senator PURCELL. It is issued to the railroad by the Government?

Mr. BARR. Yes, sir; I understand so, but I do not know. They got it, I believe, in the Montana land that went back into the Forest Survey. I do not know just how they came into possession of the scrip.

Mr. MADISON. But they have script, which, when a person purchases it, it entitles them to the right to locate certain land under that script?

Mr. BARR. Yes, sir.

Mr. MADISON. What kind of land is it, timber land?

Mr. BARR. It is timber land.

Mr. MADISON. Timber land alone?

Mr. BARR. That is all I have any use for.

Mr. MADISON. Now, then, is this script current up there? Is it commonly sold?

Mr. BARR. Northern Pacific script is not commonly sold. They only issue it for the piece that is selected, and it is, I understand, certified before the land office here.

Mr. MADISON. How were you going to get possession of the piece of this script?

Mr. BARR. Buy it.

Mr. MADISON. Of whom? The Northern Pacific Railroad?

Mr. BARR. Yes, sir.

Mr. MADISON. Then, having obtained the script, you could locate your piece of land?

Mr. BARR. Yes, sir; you could take any land that is open to this script.

Mr. MADISON. How long ago was this that you were going to buy this?

Mr. BARR. Well, I have some pieces that I bought two years ago.

Mr. MADISON. I am talking about this piece of script which you say Glavis was in some way connected with—this piece of land.

Mr. BARR. That was in November.

Mr. MADISON. Of this year?

Mr. BARR. Yes, sir.

Mr. MADISON. After Glavis had gone out of the service?

Mr. BARR. Yes, sir.

Mr. MADISON. Did he at any time when he was in the service ever have any dealings of that kind with you?

Mr. BARR. No, sir.

Mr. MADISON. Of no kind, shape, or form?

Mr. BARR. No, sir.

Mr. MADISON. And in what way did he aid you in connection with this? Tell the whole thing. We want to get all the facts, no matter who it hurts or who it helps. That is what we are here for. Now tell us the whole thing.

Mr. BARR. I can not give you the facts. If I had my records here I could give them to you very quickly. It is a matter of office record.

Mr. MADISON. But it is not a matter of office record as to what connection Glavis had with it, is it?

Mr. BARR. Yes, sir; it is a matter of record in the office of Glavis's connection with letters that passed back and forth between us on the subject.

Mr. MADISON. Did he find the piece of land for you?

Mr. BARR. I think it was picked out of the list—that is, the state indemnity selection list—being the only—

Mr. MADISON. Was it the state indemnity selection list? What is meant by that? You folks up in that country know all about it, but I confess that I do not know, and I want to know.

Mr. BARR. The state list, where they have lost land or claimed to have lost land, and if they have they make an indemnity selection to offset their supposed loss, and these lands are a part of the land that they have selected in lieu of the lands—

Mr. MADISON. Now, the State of Washington had selected this particular piece or tract, which you were going to try to get with Northern Pacific scrip?

Mr. BARR. Yes, sir; they had selected in lieu of some piece that they sold, and they are holding both pieces, and they had no right to it.

Mr. MADISON. That was your idea about the matter.

Mr. BARR. It is plain on the face of it. They are trying to hold two pieces.

Mr. MADISON. Then you say to the committee that it is a fact that as to this piece of land which you were endeavoring to get, that the State has selected it in lieu of the land which it had already held?

Senator PURCELL. And had not leased?

Mr. BARR. Yes, sir.

Mr. MADISON. So that the State clearly had no right to take this piece of land in lieu of something that it still retained?

Mr. BARR. Yes, sir.

Mr. MADISON. That was the situation?

Mr. BARR. Yes, sir. The land was really open to entry, subject to entry on the filing of this scrip.

Mr. MADISON. Now, what did Glavis have to do with the matter? Did he select the land for you? Did he find it?

Mr. BARR. No, sir; I had him go down to Vancouver to look this up for me, and afterwards I investigated that land and found the part that I wanted, and made the selection.

Mr. MADISON. You had him go to Vancouver and look at it for you?

Mr. BARR. That is, the State or local land office that has jurisdiction over the territory where this land is located.

Mr. MADISON. Was it a State local land office, or a United States land office?

Mr. BARR. A United States local land office.

Mr. MADISON. And you asked him in November to go down there and look over the records about this matter?

Mr. BARR. Yes, sir.

Mr. MADISON. Was that all the connection he had with it?

Mr. BARR. Yes, sir.

Mr. MADISON. That is all.

Senator PURCELL. Let me ask a little further on that point. How did the State of Washington claim the first land, under the grant made in the enabling act?

Mr. BARR. I think that is the way they claimed the first land. I think it was part of section 1636.

Senator PURCELL. And the State of Washington claimed that it had lost certain of this land granted to it?

Mr. BARR. Yes, sir.

Senator PURCELL. And that in lieu of the land lost it selected——

Mr. BARR. This land.

Senator PURCELL. This land that you were talking about?

Mr. BARR. But it had not lost the——

Senator PURCELL. But your contention is they had not lost the original piece of land?

Mr. BARR. They had not lost that original piece of land.

Senator PURCELL. And therefore they are not entitled to take lieu land?

Mr. BARR. Yes, sir.

Senator PURCELL. That is your contention, is it?

Mr. BARR. Yes, sir; that is my contention.

Senator PURCELL. And you have bought scrip of the Northern Pacific Railroad Company with a view of purchasing with that scrip this land?

Mr. BARR. Yes, sir.

Senator PURCELL. That the State of Washington called lieu land; is that the idea?

Mr. BARR. Indemnity selection.

Senator PURCELL. Or lieu land. Do you say that Mr. Glavis has not aided you in any way at all except after he had left the service, that he did what you asked him to do?

Mr. BARR. Yes, sir.

Senator PURCELL. You swear to that, do you?

Mr. BARR. Yes, sir; I do, that he never aided me until after he left the service.

Senator PURCELL. Did he at any time ever convey to you any information that he had ever obtained, so far as you know, while he was an employee of the Government?

Mr. BARR. No, sir.

Senator PURCELL. Have you benefited in any way by his being an employee of the Government?

Mr. BARR. No, sir.

Senator PURCELL. You have not?

Mr. BARR. No, sir.

Senator PURCELL. Is this the writing that you speak of, this memorandum between you and he in writing?

Mr. BARR. My memorandum of agreement; yes, sir.

Senator PURCELL. Have you that memorandum?

Mr. BARR. Yes, sir; it is in my office.

Senator PURCELL. What is the date of that memorandum?

Mr. BARR. Why, I don't recall the date of it; I think it was in November some time.

Senator PURCELL. Are you a married man?

Mr. BARR. Yes, sir.

Senator PURCELL. Is Mr. Glavis a married man?

Mr. BARR. Why, he is yet, I think.

Senator PURCELL. I understood you to say you and he were the best of friends?

Mr. BARR. Yes, sir; we have always been friends.

Senator PURCELL. During the time that he was at work around Seattle or Spokane did you and he chum together?

Mr. BARR. Yes, sir.

Senator PURCELL. Did you talk over your business affairs with him?

Mr. BARR. Why, as much as I could talk with him, I talked with him about them.

Senator PURCELL. Did he talk over with you what he was working at for the Government?

Mr. BARR. No, sir.

Senator PURCELL. He did not?

Mr. BARR. Not the Government's affairs. He never came to discuss the affairs of the department until after around the time of his dismissal.

Senator PURCELL. Did you know of his having trouble with the department before he quit the service?

Mr. BARR. Why, I did two or three weeks before, or such a matter as that.

Senator PURCELL. He told you about that?

Mr. BARR. He told me about his troubles; yes, sir.

Senator PURCELL. Talked over his troubles with the department with you to some extent?

Mr. BARR. I think so; yes, sir.

Senator PURCELL. Had you ever had any experience in being employed by the Government?

Mr. BARR. No, sir.

Senator PURCELL. You knew it was necessary, did you, to take receipts for papers?

Mr. BARR. My idea was that it would be; I thought it was necessary.

Senator PURCELL. From where did you get that idea?

Mr. BARR. Why, I don't know where I got the idea, anymore than it is always customary when I turn over anything to get a receipt for it—all the papers, documents, moneys, and everything else.

Senator PURCELL. You have testified that he told you he had not gotten a receipt for the papers; you also testified at one place that he said he had not gotten a receipt for the papers he delivered that morning, or had turned over that morning. Is that correct?

Mr. BARR. I think so; yes, sir.

Senator PURCELL. Did he use in that conversation the words "that morning," that he had not gotten a receipt for the papers turned over that morning?

Mr. BARR. No; I think he spoke of having been up to the land office and left these papers there his papers and that he had not taken a receipt for them.

Senator PURCELL. That he had not taken a receipt for them?

Mr. BARR. That he had not taken a receipt for them; but that possibly came out in answer to my question on that point.

Senator PURCELL. That is all.

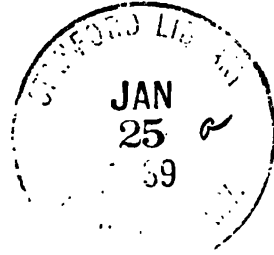
Mr. BRANDEIS. Do you mean that he had not taken a receipt, or they had not given him a receipt?

Mr. BARR. I did not understand it.

The CHAIRMAN. It is now nearly 6 o'clock, and the committee will stand adjourned until 10 o'clock to-morrow morning.

(Accordingly, at 5.50 the committee adjourned until tomorrow, Saturday, February 26, 1910, at 10 o'clock a. m.)

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NO. 14

**HEARINGS BEFORE THE COMMITTEE TO INVESTIGATE THE
INTERIOR DEPARTMENT AND FORESTRY SERVICE**

FEBRUARY 26, 1910

**ROOM 207, SENATE OFFICE BUILDING
WASHINGTON, D. C.**

MEMBERS OF THE JOINT COMMITTEE.

KNUTE NELSON, Minnesota, Chairman.

SAMUEL W. McCALL, Massachusetts, Vice-Chairman.

FRANK P. FLINT, California.

GEORGE SUTHERLAND, Utah.

ELIHU ROOT, New York.

WILLIAM E. PURCELL, North Dakota.

DUNCAN U. FLETCHER, Florida.

MARLIN E. OLMSTED, Pennsylvania.

EDWIN DENBY, Michigan.

E. H. MADISON, Kansas.

OLLIE M. JAMES, Kentucky.

JAMES M. GRAHAM, Illinois.

PAUL SLEMAN, Secretary.

Senator PURCELL. That he had not taken a receipt for them?

Mr. BARR. That he had not taken a receipt for them; but that possibly came out in answer to my question on that point.

Senator PURCELL. That is all.

Mr. BRANDEIS. Do you mean that he had not taken a receipt, or they had not given him a receipt?

Mr. BARR. I did not understand it.

The CHAIRMAN. It is now nearly 6 o'clock, and the committee will stand adjourned until 10 o'clock to-morrow morning.

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SATURDAY, FEBRUARY 26, 1910.

JOINT COMMITTEE TO INVESTIGATE THE INTERIOR DEPARTMENT AND FORESTRY SERVICE, Washington, February 26, 1910.

The Joint Committee to Investigate the Interior Department and Forestry Service met, pursuant to adjournment, at 10 a. m.

Present, Senators Nelson (chairman), Flint, Sutherland, Root, Fletcher, and Purcell; Representatives McCall, Olmsted, Denby, Madison, James, and Graham; Mr. Paul Sleman, secretary; also Mr. Louis D. Brandeis and Mr. Joseph P. Cotton, jr., representing Mr. Louis R. Glavis; also Mr. George Wharton Pepper and Mr. Nathan C. Smyth, representing Mr. Gifford Pinchot; also Messrs. John J. Vertrees and Carl Rasch, representing Secretary Ballinger; also Mr. C. C. Finney.

The CHAIRMAN. The committee will please come to order and the examination will proceed. Before the witness is called I desire to say that my attention has been called to the fact that the statement report of Mr. Fisher, which appears on page 1044 of the testimony, is not the full report of Mr. Fisher offered by Mr. Vertrees yesterday, but is simply a statement to the Secretary regarding that report. The record will therefore show at this point the full report of Mr. Fisher.

The report reads as follows:

Abstract of report on the Cunningham coal property, Controller Bay region, Alaska, by C. A. Fisher.

INTRODUCTION.

The Cunningham coal property is located in the Controller Bay region about 25 miles northeast of Katalla, Alaska. It comprises an area 5 miles long and 2 miles wide lying north of Stillwater River, between Canyon Creek and Kushtaka Glacier. Within this area there are 33 coal claims, which constitute the so-called "Cunningham group."

The investigation upon which this report was based was begun on September 26 and ended on October 18. I was assisted in the work by Messrs. L. W. Storm and M. M. Reese, local engineers of southeastern Alaska; also a corps of six prospectors and miners. As coal exposures in this field are rare, excepting along the streams, the method of field work employed was to meander all the large streams and their more important tributaries with stadia or chain, and the coals thus found were located, expected, and measured. These meanders were tied to claim corners in all cases.

TOPOGRAPHY.

The district covered by the Cunningham coal claims is one of hilly topography with very little level land. Its salient features are relatively high, steep-sided, narrow-topped, irregular ridges separated by deep, narrow valleys. Cunningham Ridge, the most prominent topographic feature, which extends across the property in a northeasterly direction, culminates in Monument Mountain. East of this ridge and roughly parallel to it is another ridge of less prominence locally known as Canyon Creek Ridge. Across the west end of the property extends what is known as Trout Creek Ridge, a north-south trending hill of lower altitude than either of the above-described ridges. The sides of these high ridges are gashed by numerous small canyons on their lower slopes, above which rounded peaks or shelving areas occur, followed in ascending order by sharp, irregular peaks and ridges. In general the eastern slopes of these ridges are relatively steep, while the western slopes are more gentle.

The district is drained by Canyon, Clear, and Trout creeks, each of which flows in a south-southwest direction. These streams are fed by numerous small tributaries heading high on the slopes of the hills.

The Cunningham property is only partly covered by forest. The lower slopes of the valleys support a dense growth of evergreens, consisting mainly of spruce and hemlock. Above the timber, which occurs at an elevation of about 800 to 1,000 feet, the surface is partly bare and partly covered with grass, small bushes, and a stunted growth of spruce and alder.

GEOLOGY.

The rocks outcropping at the surface within this district consist of a series of sandstone, shale, and coarse arkose interstratified with many beds of coal and intruded to some extent by igneous rocks in the form of dikes and sills. The total thickness of beds represented within the district probably exceeds 4,000 feet. They have been divided by previous workers into three formations, namely, the Stillwater, Kushtaka, and Tokun. The Kushtaka is the principal coal-bearing formation, while the Tokun is barren of coal. It is believed that coals of workable thickness also occur in the Stillwater formation.

The rocks of the district have a general northeast strike, with steep dips ranging from 25 to 50 degrees to the northwest, although local variation in this general direction of dip and strike is frequently encountered. To the northeast, along Canyon Creek, local complexity of structure was observed, including a complicated system of faulting, and it is probable that faults of minor magnitude occur at other places within the district, but none were observed while in the field.

COALS.

The coals of the Cunningham district are confined to the Kushtaka and Stillwater formations, the Tokun, so far as observed, being non coal bearing. Within these two formations coal beds occur at frequent stratigraphic intervals. Twenty-eight distinct workable beds were found in these two formations, having an aggregate thickness of 189 feet of coal. In thickness these beds range from a minimum of $1\frac{1}{2}$ to a maximum of 43 feet, but the usual thickness is from 6 to 10 feet. (See pp. 6 and 7 of the accompanying report.)

CHARACTER OF THE COAL.

The coals of the different horizons found in this district are in general soft, friable with a pronounced foliated structure and graphitic luster. They are badly crushed and shearing planes are well developed, although certain beds show a considerable degree of firmness. The coals grade in quality from a semibituminous coking to a semianthracite, the western half of the district being underlain by the former and the eastern half by the latter.

CONDITIONS AFFECTING MINING OF COAL.

The high angle at which these coal beds dip will make special methods of mining necessary in this field, but steeply dipping coal beds have been encountered and successfully dealt with in other coal fields. Variability in thickness of the coal beds was noted at several places, especially in the case of the thicker beds. In the judgment of the writer, however, these coal beds can not be regarded as especially peculiar in character. The softness and friability of the coals of course decrease to a certain extent their value, and in mining these deposits this physical condition

the coal will call for special treatment. It is believed, however, that in a coking coal of this quality the value of the deposit will not be seriously affected. Water in considerable quantities will probably be encountered in mining this coal; also more or less gas.

DETAILED DESCRIPTION OF COALS.

The so-called "Cunningham group" consists, as previously stated, of 33 coal claims. These claims fall into two general classes, one in which coals of workable thickness are exposed within the boundaries of the claim and the other in which no coals are exposed at the surface within the claim, but from geologic evidence on adjoining claims they are known to be underlain by coals of workable thickness at depths less than 3,000 feet. Twenty-eight of the 33 fall into the first class mentioned and 5 are included in the second class.

On pages 11 to 49 of the accompanying report there is given a description of the individual claims constituting the Cunningham group. The subject-matter is treated under the headings of "General statements" and "Timber." The former gives the location, size, character, and structure of rocks, number and location of prospects, and thickness of coal exhibited on each claim, while the latter states briefly the proportion of forest and nonforest land contained within its boundaries. The description is closed by a conclusion as to the coal or noncoal character of the claim in question.

CONCLUSION.

As the result of the present investigation, it is believed that the 33 coal claims constituting the Cunningham group are underlain entirely or in part by one or more workable beds of coal, and are therefore coal land. (See Conclusions, individual claims.) These conclusions are based, with one exception, upon evidence obtained from prospects located within the limits of the Cunningham group, the district to which the present investigation was confined. It is possible that workable coal beds exist lower in the stratigraphic column than those found in the present investigation. In fact, reports are current of coal of workable dimension having been prospected in the southern end of Canyon Creek Ridge. If these coals exist and the structural conditions remain unchanged to the south, they would in their northward extension underground cause the area underlain by workable coal to extend farther southward than at present assumed. No definite evidence as to the existence of these lower coals was obtained other than that afforded by the small prospect found on the west side of Clear Creek, in the extreme southeast corner of the Avon claim, which indicates that coal-forming conditions existed down to that point in the stratigraphic column.

[Report on the Cunningham coal property, Controller Bay region, Alaska.]

Location.—The Cunningham coal property is located in the Controller Bay region, about 25 miles northeast of Katalla, Alaska. It comprises an area 5 miles long and 2 miles wide lying north of Stillwater River, between Canyon Creek and Kushtaka glacier. Within this area there are 33 coal claims, which constitute the so-called "Cunningham group."

Field work.—The field work upon which this report is based was carried on during the fall of 1909. The investigation was begun on September 26 and closed on October 18. I was assisted in the work by Messrs. L. W. Storm and M. M. Reese, local engineers, southeastern Alaska; also a corps of 6 prospectors and laborers.

The field is one in which rock exposures are rare, excepting along the streams. The surface is covered almost entirely by a thick blanket of moss, grass, and brush above timber line, and below that line by a dense forest, mainly of spruce and hemlock. Under these conditions it became evident early in the investigation that the best, if not the only, method of studying and locating the coal was to make a detailed examination of all streams' courses within the district in search of coal outcrops. Consequently, all the large streams and their more important tributaries were meandered with stadia or chain and the coals thus found were located, prospected, and measured. These meanders were tied to claim corners in all cases. During the investigation all claim corners excepting 18 were found and occupied, and 201 different coal prospects were opened and measured. The locations of these are shown on the maps of the claims which accompany this report.

Topography.—The district covered by the Cunningham coal claims is one of hilly topography, with very little level land. Its salient features are relatively high, steep-sided, narrow-topped, irregular ridges separated by deep, narrow valleys. The most prominent topographic feature of the district is the Cunningham ridge, which extends across the property in a northeasterly direction, culminating in Monument Mountain. To the east of this ridge and crossing the property roughly parallel to it is another ridge of less prominence, locally known as Canyon Creek ridge. Across the west end of the property extends what is known as the Trout Creek ridge, a north-south trending

hill of less prominence than either of the above-described ridges. At its northern end and near the north end of the district there is a low pass separating Trout Creek ridge from the western slope of Monument Mountain.

The sides of the more prominent ridges are gashed by numerous small canyons on their lower slopes, above which rounded peaks, or shelving areas, occur, followed in ascending order by sharp, irregular peaks and ridges. In general, the eastern slopes of the above-described ridges are relatively steep, while the western slopes are most gentle. This topographic feature is best illustrated by the eastern face of Canyon Creek ridge.

The district is drained by Canyon, Clear, and Trout creeks, each of which is fed by numerous small tributaries heading high up on the slopes of the hills. Canyon Creek crosses the east side of the property, flowing southwestward and emptying into Bering River. It receives from the west a large number of small tributaries draining the east slope of Canyon Creek ridge. Clear Creek, the next stream in size, flows southwest across the central part of the district, emptying into Stillwater River beyond its southern boundary. It is also joined by many tributaries from either side, the largest of which, from the northwest, are Chief John, McGrath, Barrett, Jacklow, and Moore creeks, and from the southeast, Crocker, Fisher, and Lyons creeks. The west end of the property is drained by Trout Creek, which has a north-south course and empties into Stillwater River about 1½ miles southeast of the property. It is along Trout and Clear creeks and their numerous tributaries that the best exposures of the coals of this district are found. The valleys of these streams also furnish ready access to the coal deposits of all parts of the district. The above-described streams carry a large amount of water throughout all seasons of the year, derived partly from melting snows and partly from rainfall, which in this region is very large.

The Cunningham property is only partly covered by forest. The lower slopes of the valleys support a dense growth of evergreens, consisting mainly of spruce and hemlock. Above the timber line, which occurs at an elevation of about 800 to 1,000 feet, the surface is partly bare and partly covered with grass, small bushes, and a stunted growth of spruce and alders.

Geology.—The rocks outcropping at the surface within this district consist of a series of sandstone, shale, and coarse arkose interstratified with many beds of coal, and intruded to some extent by igneous rocks in the form of dikes and sills. The total thickness of beds represented within the district probably exceeds 4,000 feet, although no opportunity was afforded for making a detailed section of all rocks exposed in this district. G. C. Martin, who has made a detailed study of the geology of this general region, recognizes three formations, namely, the Stillwater, Kushtaka, and Tokun, all of Tertiary age. The following section shows the age, order, characteristic features, and thickness of these formations. The total thickness of the Stillwater and Tokun formations is not represented within the district here described.

General section of rocks of the Cunningham district.

Age.	Formation name.	Character of rocks.	Thickness.
			<i>Fet.</i>
Tertiary.....	Tokun.....	Sandstone and shale.....	50
Do.....	Kushtaka.....	Arkose, sandstone, and shale, with many beds of coal.....	250
Do.....	Stillwater.....	Shale and sandstone.....	1,000

Structure.—The rocks of the district have a general northeast strike, with steep dips ranging from 25 to 50 degrees to the northwest, although local variations in this general direction of dip and strike is frequently encountered. At certain places within the limits of the property a due east-west strike was observed, and other places were found where the strike was northwest. In general, a monoclinical northwest dip and northeast strike hold throughout the greater part of the district. At Trail Pass, a low saddle in Cunningham ridge, the monoclinical northwest dip flattens, and there is a slight suggestion of low arching in the beds. This structural feature, however, is believed to be local. To the northeast, along Canyon Creek, local complexity of structure was observed, including a complicated system of faulting, and it is probable that faults of minor magnitude occur at other places within this district, but none were observed while in the field.

Coals.—The coals of the Cunningham district are confined to the Kushtaka and Stillwater formations, the Tokun, so far as observed, being noncoal-bearing. Within these two formations coal beds occur at frequent stratigraphic intervals. Twenty-eight distinct workable beds were found in these two formations, having an aggregate thickness of 189 feet of coal. In thickness these beds range from a minimum of 1½ to a

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maximum of 43 feet, but the usual thickness ranges from 6 to 10 feet. A section compiled from actual measurements made in certain parts and estimates made in other parts of the district is given below. In obtaining the data for this section the physical conditions in the field were often decidedly unfavorable for measuring the exact interval between the respective coal beds, making it necessary in such cases to resort to estimates. For this reason the total thickness here given of coal-bearing beds represented within the district can be regarded only as an approximation. The respective thicknesses of the various coal beds, however, were carefully measured in each case.

Generalized section showing position of coal beds in the Cunningham district.

	Ft.	In.
Tokun formation (noncoal-bearing).....	500+	
Kushtaka formation (coal-bearing).....	150	
Coal.....	2	2
Interval.....	38	
Coal.....	4	4
Interval.....	25	
Coal.....	4	6
Interval.....	40	
Coal.....	2	8
Interval.....	30	
Coal.....	1	4
Interval.....	50	
Coal.....	3	
Interval.....	60	
Coal.....	4	
Interval.....	80	
Coal.....	18	9
Interval.....	100	
Coal.....	3	1
Interval.....	60	
Coal.....	7	
Interval.....	20	
Coal.....	7	
Sandstone.....	50	
Coal.....	3	6
Interval.....	25	
Coal (with 3-foot parting near top).....	40	
Interval.....	60	
Coal.....	1	9
Interval.....	50	
Coal.....	6	
Interval.....	12	
Coal.....	2	8
Interval.....	70	
Coal.....	12	
Interval.....	16	
Coal.....	8	
Interval.....	400	
Coal.....	3	
Interval.....	30	
Coal.....	11	
Interval.....	700	
Coal.....	7	
Interval.....	100	
Coal.....	3	
Interval.....	200	
Coal.....	13	4+
Interval.....	15	
Coal.....	6	6
Interval.....	600 to 800	
Coal.....	3	2
Interval.....	100 to 200	
Coal.....	1	9
Interval.....	100 to 200	
Coal.....	3	2
Total.....	4, 288+	9+

Physical properties of coal.—The coal of the different horizons found in this district do not vary widely in physical properties, but bear a rather strong regional resemblance to each other. They are in general soft, friable, with a pronounced foliated structure and graphitic luster. The coal is often badly crushed and shearing planes are well developed, although certain beds show a considerable degree of firmness. In some cases the shearing has taken place to such an extent as to almost completely obscure the original bedding planes. The degree of firmness or hardness of the coals of the different beds, as indicated at or near the surface, is believed to be a fairly safe criterion upon which to judge their condition underground. This statement is based mainly on observations made in several tunnels along Trout Creek, where the largest amount of development work has been done. It was observed here that where the coals were soft and friable at the surface they did not increase perceptibly in hardness on going under ground; and, similarly, coals that exhibited unusual firmness for this district on the crop were found to retain that condition at the face of the tunnel, which in one case was over 400 feet into the hill under considerable cover.

Chemical composition of coal.—According to analyses made from samples collected by G. C. Martin, of the United States Geological Survey, who has made a thorough study of the coals of this general region, these coals grade in quality from a semibituminous coking to a semianthracite, the western half of the district being underlain by the former and the eastern half by the latter. As the change in the quality of these coals from west to east is transitional, no sharp line of demarcation between them can be drawn. The coals range from 73 to 87 per cent in fixed carbon, 7 to 14 per cent volatile matter, and have a low moisture content and relatively low ash. The calorific value varies from about 12,000 to 14,500 B. t. u.

Attitude of the coal.—As previously stated, the coal beds of this district all dip at high angles to the northwest. This attitude of the deposits will make special methods of mining necessary within the district. Steeply dipping coal beds have been encountered, however, and successfully dealt with in other coal fields without excessive cost. This structural feature does not seriously affect the value of the coal.

Persistence of individual coal beds.—While evidence of variability in the thickness of the coal beds was noted at several different places in this district, especially in case of the thicker beds, in the judgment of the writer, these coal beds can not be regarded as especially lenticular in character, but, on the contrary, fairly persistent in thickness.

Friability of the coal.—Many of the coal beds of this district are, as previously stated, soft and friable, although some exhibit a moderate degree of hardness or firmness. Of course the physical condition of softness or friability in coals depreciates to a certain extent their value, and in such cases special treatment will be necessary in their mining. It is believed, however, that in a coking coal of this quality this feature will not seriously affect the value of the deposits.

Water and gas in the coal.—Underground water will probably be encountered in considerable quantities in mining these coals, for there is a large amount of surface water, some of which is transmitted underground along the coal horizons, issuing at the surface as springs. It is believed, however, that by the proper method of mining the problem of drainage can be successfully and inexpensively met, especially with the coals which lie above surface drainage.

From an examination of several of the tunnels along Trout Creek, and reports of previous workers in other parts of this region, the writer is of the opinion that more or less gas will be encountered in the mining of these coals.

DETAILED DESCRIPTION OF COAL CLAIMS.

GENERAL STATEMENTS.

The so-called "Cunningham group" consists, as previously stated, of 33 coal claims which are as follows: Cunningham, Victor, Frick, Syndicate, Newgate, Ludlow, Plutocrat, Wabash, Tulare, Tampa, Clear, Socorro, Lobster, Octopus, Maxine, Collier, Rutland, Tenino, Agnes, Candelaria, Deposit, Carlsbad, Calais, Bozeman, Boston, Bedford, Lyons, Lucky Baldwin, Avon, Ansonia, Albion, Adams, and Adrian. These claims fall into two general classes, one in which coals of workable thickness are exposed within the boundaries of the claim, and the other in which no coals are exposed at the surface within the claim, but from geologic evidence on adjoining claims they are known to be underlain by coal of workable thickness at depth less than 3,000 feet, the limit of deep-coal mining recognized by the United States Geological Survey at the present time. Twenty-eight of the above described claims fall into the first class mentioned, and five, namely, Cunningham, Victor, Frick, Rutland, and Adrian, are included in the second class.

CUNNINGHAM CLAIM.

General statements.—The Cunningham claim is situated in the northwest corner of the Cunningham group of claims, on the western slope of Cunningham Ridge. It is bounded on the east by the Victor, south by Maxine claim, and includes an area of 159,201 acres. The Tokun, a noncoal-bearing formation, the highest stratigraphically represented in this district, outcrops at the surface over the entire claim. The rocks dip at an angle of about 25 degrees north-northwest, and strike east-northeast, as is shown on the map of the claim accompanying this report. No coals were found exposed on the Cunningham claim, but at a distance about 1,300 feet south of its south boundary, on the Maxine claim, seven workable beds of coal were prospected and measured which dip to the northwestward, thus passing beneath the surface of the claim at a depth considerably less than 3,000 feet. The location of the prospects above referred to, on the Maxine claim, and their distance from the south border of the Cunningham claim, are shown on the map of the Maxine claim which accompanies this report.

Timber.—The entire claim lies above timber line, and its surface is partly bare and partly covered by grass, moss, low bushes, and stunted alders and spruce.

Conclusion.—It is believed, from the evidence afforded by the location and structural relation of the seven coal prospects on the Maxine claim, which adjoins the Cunningham on the south, that the latter is underlain by seven, and probably more, workable beds of coal at depths considerably less than 3,000 feet below the surface, and is therefore coal land.

VICTOR CLAIM.

General statements.—The Victor claim is situated second from the west in the northernmost tier of the Cunningham group of claims, on the western slope of Cunningham Ridge. It is bounded on the east by the Frick, south by Octopus, west by Cunningham, and includes an area of 159,201 acres. The Tokun, a non coal-bearing formation, the highest stratigraphically represented in this district, outcrops at the surface over the entire claim. The rocks dip at an angle of about 25 degrees northwest, and strike northeast. No coals were found exposed on this claim, but within a distance of less than 700 feet to the south, on the Octopus claim, a number of coal beds occur which dip to the northwest, passing under this claim at a depth less than 3,000 feet.

Timber.—The entire claim lies above timber line, and its surface is partly bare and partly covered by grass, moss, low bushes, and stunted alder and spruce.

Conclusion.—From the evidence afforded by the location and structural relation of the several coal beds on the Octopus claim, which adjoins the Victor on the south, less than 700 feet from the southern boundary of the latter, it is believed that the Victor claim is underlain by a number of workable coal beds at depths considerably less than 3,000 feet below the surface, and is therefore coal land.

FRICK CLAIM.

General statements.—The Frick claim is situated third from the west in the northernmost tier of the Cunningham group of claims and includes the summit of Monument Mountain. It is bounded on the east by the Syndicate, south by the Lobster, west by the Victor, and includes an area of 159,201 acres. The Tokun, a noncoal-bearing formation, the highest stratigraphically represented in this district, outcrops at the surface over all excepting the southeast corner of this claim, where the Kushtaka formation is exposed. The rocks dip at an angle of about 25° to the northwest and strike northeast. No coals were found exposed on this claim, but at the head of one of the branches of Barrett Creek, which has its source in the northeast corner of the Lobster claim, which joins the Frick on the south, there are five workable beds exposed, one of which has a thickness of 18 feet 9 inches. The horizon of these beds passes very near, if not across, the extreme southeast corner of the Frick claim, and as their dips do not exceed 25° at this place, they would underlie the entire Frick claim at relatively shallow depths.

Timber.—This claim is barren of timber, its surface being covered by grass and small bushes.

Conclusion.—From the evidence afforded by the location and structural relation of the coal prospects in the northeast corner of the Lobster claim, which adjoins this on the south, it is believed that the entire Frick claim is underlain by several beds of workable coal at no great depths, and is therefore coal land.

SYNDICATE CLAIM.

General statements.—The Syndicate claim is located fourth in the northernmost tier of the Cunningham group of claims, on the southeastern slope of Cunningham ridge. It is bounded on the east by the Newgate, south by Socorro, west by Frick, and includes an area of 159.041 acres. The Tokun, a noncoal-bearing formation, the highest stratigraphically represented in this district, outcrops at the surface over the northwest half of this claim, the southeast half being occupied by the Kushtaka formation, which is coal bearing. At six different localities on the head of McGrath Creek, in the southeast part of the claim, coal beds were opened which range in thickness from 3 to 16 feet. These beds, which represent some of the higher coals in the Kushtaka formation, dip at an angle of 44° to the northwest and strike northeast, and therefore underlie all that portion of the Syndicate claim lying to the northwest of their outcrop. The extreme southeast corner of the claim is underlain by many beds of coal of workable thickness, also dipping to the northwest, which have been prospected and measured on the Newgate and Socorro claims adjoining this claim on the east and south. The outcrop of one of these beds, which has a thickness of $43\frac{1}{2}$ feet, prospected on the Newgate claim, in its southwestern extension passes within about 1,200 feet of the southeast corner of the Syndicate claim, and consequently underlies at least a part of the Syndicate at a depth within the limit of practical mining.

Timber.—The entire claim is barren of timber, its surface being covered with grass and small bushes.

Conclusion.—This claim not only has several workable beds of coal outcropping within its boundaries, but it is also underlain by many more beds at depths less than 3,000 feet, and therefore is regarded as coal land.

NEWGATE CLAIM.

General statements.—The Newgate claim is located fifth in the northernmost tier of the Cunningham group of claims, on the southeast slope of Cunningham Ridge. It is bounded on the east by the Ludlow, south by the Clear, west by the Syndicate, and includes an area of 159.161 acres. The Kushtaka, the principal coal-bearing formation of this district, occupies the surface over the entire area of the claim. The rocks have a northwest dip of about 45° and a general strike to the northeast. At nine different localities on this claim, representing eight distinct beds, coals were opened having thicknesses varying from 3 to $43\frac{1}{2}$ feet. The location of the prospects and the respective thicknesses of the beds are shown on the map of the claim accompanying this report.

Timber.—The greater part of this claim is barren of timber, the surface being covered with grass and small bushes. The southeast corner is covered by a rather sparse growth of spruce and hemlock. The boundary between the timber and nontimber land is shown on the map of the claim accompanying this report.

Conclusion.—From the evidence afforded by the large number of workable coal beds which have been opened on this claim it is certain that its entire surface is underlain by many feet of workable coal, and it is therefore coal land.

LUDLOW CLAIM.

General statements.—The Ludlow claim is located sixth from the west in the northernmost tier of the Cunningham group of claims, near the headwaters of Clear Creek. It is bounded on the east by the Plutocrat, south by the Tampa, west by the Newgate, and includes an area of 159.400 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops at the surface over the entire claim, the rocks dipping at an angle of about 45° to the northwest, with strike northeast. At two localities near the western border of this claim tunnels have been driven into the large $43\frac{1}{2}$ -foot bed which outcrops just across the line to the west in the Newgate claim. The horizon of this thick bed of coal extends across this claim, underlying at least half of its area, and as there are several beds stratigraphically below this coal bed outcropping on the Tampa claim, also dipping northwest, they must, assuming normal structure, necessarily underlie this entire claim. In the extreme southeast corner of the Ludlow claim a coal bed was opened having a thickness of 4 feet. The location of this prospect, also the two tunnels above mentioned, are given on the map of the Ludlow claim accompanying this report.

Timber.—Nearly one-half of the area included in the Ludlow claim is covered by a moderately dense growth of spruce and hemlock forest. The remainder of the area lies above timber line, and its surface is therefore bare or covered with grass and small bushes. The boundary between the timber and nontimber land is shown on the map of the claim accompanying this report.

Conclusion.—The large number of workable beds of coal which have been opened on the Newgate claim to the west, and which must underlie this claim under normal structural conditions, together with the coals opened or tunneled within its boundaries, prove conclusively that the entire area is underlain by many feet of workable coal and is therefore coal land.

PLUTOCRAT CLAIM.

General statements.—The Plutocrat claim is located seventh from the west in the northernmost tier of the Cunningham group of claims, mainly on the western slope of the Canyon Creek Ridge. It is bounded on the east by the Wabash, south of the Tulare, west by the Ludlow, and includes an area of 159,400 acres. The Kushtaka, the principal coal-bearing formation of this district, occupies the surface over the entire claim, with rocks dipping from 30 to 45 degrees northwest, and the strike northeast. At five different localities on this claim coal beds were opened, representing as many distinct coal horizons. In these prospects the coal ranges in thickness from 1½ to 7½ feet. As three of these beds are located along the south border of the claim and have a dip of 30 degrees to the north and northwest, they must underlie the greater part of the claim. In the northern part of the Tulare claim, which joins the Plutocrat on the south, there are a large number of workable coal beds dipping to the northwest, which must also pass under the Plutocrat claim. One of these beds has a total thickness of over 24 feet of coal, with a shale member 2 feet thick in the lower part.

Timber.—This entire claim lies above timber line, and its surface is therefore bare or covered with grass and small bushes.

Conclusion.—From the various coal prospects which have been found within the boundaries of this claim and those lying to the east and south in the Wabash and Tulare claims that must in their northward extension underground pass under the Plutocrat, it is evident that the entire area of the claim is underlain by many beds of coal of workable thickness, and it is therefore coal land.

WABASH CLAIM.

General statements.—The Wabash claim is located in the northeast corner of the Cunningham group of claims, on the steep eastern slope of Canyon Creek Ridge. It is bounded on the west by the Plutocrat claim, and includes an area of 159,001 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops at the surface over the entire claim with the exception of a small tract in the southeast corner where the bed rock is overlaid by recent alluvial deposits. The rocks on this claim have a dip of 30 degrees to the northwest, and strike north-northeast. Along the eastern border of the claim there is evidence of local complexity of structure, which may possibly cause the coals in this vicinity to be more or less disturbed. At seven different localities within the boundaries of this claim coal beds were prospected which showed thicknesses ranging from 1½ to 10 feet. These different prospects represent at least five or six distinct beds, all of which cross this claim in their outcrop zone from northeast to southwest, dipping into the east face of Canyon Creek Ridge and underlying all the area to the west of the point where the prospect is located.

Timber.—This claim contains a narrow belt of spruce and hemlock timber skirting the base of Canyon Creek Ridge. Its western half is sparsely covered with stunted spruce, alder, and a thick growth of brush.

Conclusion.—From the location of the various coal prospects found on this claim, it is evident that all of its area except possibly a small tract along Canyon Creek Valley is underlain by workable coal. It is also probable that the valley of Canyon Creek is underlain by coal beds which outcrop farther south on the Canyon Creek Ridge south of the limits of the Cunningham group of claims. It is therefore coal land.

TULARE CLAIM.

General statements.—The Tulare claim is located at the extreme east end of the second tier of claims from the north, on the summit of Canyon Creek Ridge. It is bounded on the north by the Plutocrat, south by the Boston, west by the Tampa, and includes an area of 159,241 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops at the surface over the entire claim. The dip of the rocks, which is from 30 to 40 degrees, has the usual northwest direction, with strike to the northeast. At sixteen different localities on this claim coals were prospected which varied from about 1 to 24 feet in thickness. The distribution of these prospects and the structure of the beds indicate clearly that the northwest half is underlain by many beds of coal. Throughout the southeast half the prospects show only 1 foot of coal in any case, but farther to the south in the Boston and Bedford claims there are

coal beds whose outcrop zone must necessarily pass across the steep east-facing bluff of Canyon Creek Ridge and underlie that portion of the Tulare claim.

Timber.—The Tulare claim contains a small area of timber land, mainly spruce and hemlock, in the southeastern portion, but the higher slopes on either side of Canyon Creek Ridge and also on its summit support nothing but a thick mantle of grass and small brush, with an occasional stunted spruce tree.

Conclusion.—From the evidence afforded by the large number of coal prospects which have been opened within the boundaries of this claim, and those northwest-dipping coal beds which cross Canyon Creek Ridge to the south of it and must of necessity under the existing structural conditions underlie the claim, it is believed that its entire area, with the possible exception of a small district in the extreme southeast corner, is underlain by one or more workable coal beds, and is therefore coal land.

TAMPA CLAIM.

General statements.—The Tampa claim is located second from the east in the second tier of claims from the north, on the west-facing slope of Canyon Creek Ridge. It is bounded on the north by Ludlow, east by Tulare, south by Bozeman, west by Clear, and includes an area of 159.121 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops at the surface over the entire claim. The rocks dip at an angle of about 45 degrees to the northwest, with a strike to the northeast. Five distinct coal beds were prospected on this claim which showed a thickness ranging from 3 to 8 feet of coal. The largest bed, which has a thickness of 8 feet 8 inches, crosses the extreme southeast corner of the claim, dipping northwest at an angle of 44 degrees and underlying the entire claim. In addition to these coals showing within the boundaries of the claim there are lower coal beds which have been prospected on Bozeman, Boston, and Tulare claims, which adjoin the Tampa on the south, southeast, and east, which, by reason of the direction of their dip, must underlie this claim at greater or less depths.

Timber.—The western two-thirds of the Tampa claim is covered by a relatively dense growth of spruce and hemlock. The eastern one-third, which lies higher on the slope of Canyon Creek Ridge, supports only a thick covering of grass and small shrubbery.

Conclusion.—From the evidence afforded by the northwest dipping coal beds exposed in the eastern half of this claim, together with those lying to the south which must pass under it, it is believed that the entire area of the claim is underlain by one or more workable coals, and is therefore coal land.

CLEAR CLAIM.

General statements.—The Clear claim is situated third from the east in the second tier of claims from the north, in the valley and adjoining slopes of Clear Creek. It is bounded on the north by the Newgate, east by Tampa, south by Calais, west by Socorro, and includes an area of 159.201 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops at the surface over the entire claim. Within its boundary the rocks dip to the northwest at an angle of 40 degrees, with a strike to the northeast. Owing to lack of suitable exposures, only one coal prospect was located on this claim, and that near the extreme northwest corner on McGrath Creek. It had a thickness of 17 feet 4 inches, and from the location of the prospect the outcrop zone of this bed must cross the northwest corner of the claim. In the extreme northeast corner of the Calais claim, which joins the Clear on the south, there are two distinct coal beds 5 feet 4 inches and 13 feet 6 inches, respectively, which dip northwest at an angle of 42 degrees, and must pass at shallow depths under the greater part of the Clear claim. In addition to these, there are four other beds of workable thickness prospected along Fisher Creek, which cross the northern part of Calais claim, that must also underlie at no great depth the Clear claim.

Timber.—All of the area included within this claim is covered by a relatively dense growth of spruce and hemlock forest, excepting a small area in the extreme northwest corner, where only sparse timber, grass, and small brush are found.

Conclusion.—From the evidence afforded, mainly by the northwest-dipping coals prospected in the Tampa and Calais claims, which border the Clear on the east and south, it is believed that the Clear claim is underlain by several beds of workable coal and is therefore coal land.

SOCORRO CLAIM.

General statements.—The Socorro claim is situated fourth from the east in the second tier of claims from the north, on the southeastern lower slope of Cunningham Ridge. It is bounded on the north by Syndicate, east by Clear, south by Carlsbad, west by Lobeter claim, and includes an area of 159.161 acres. The Kushtaka, the principal

coal-bearing formation of this district, outcrops at the surface over the entire claim. Within the boundaries of the claim the rocks dip to the northwest at angles varying from 34 to 46 degrees and strike northeast. On this claim twelve distinct coal beds were prospected, which exhibited thicknesses varying from 2 to 40 feet. In addition to these, two other coal beds were located, but not prospected, on the lower course of Barrett Creek. The twelve prospects referred to are located mainly along Jacklow Creek on the west side of the claim. The outcrop zone of this group of coal beds extends northeastward across the northwest two-thirds of the Socorro claim, and therefore that portion of the claim is underlain by an abundance of coal. Below the lowest of these twelve beds are at least five workable coal beds, two outcropping in the Socorro and three in the Carlsbad, which adjoins this claim on the south. In the Deposit, which joins it on the southwest, a similar number of lower coals occur. These lower coals, in the northeastward extension of their outcrop zone, must either cross the southeast part of the Socorro claim or at some point farther southeast, in which event they would underlie the claim.

Timber.—About one-half of the area (the southeastern part) of this claim is covered by relatively dense forests. In the northwestern half the surface is covered mainly by grass, with an occasional stunted spruce or alder. The boundary between the timber and nontimber land within the limits of this claim is shown on the map accompanying this report.

Conclusion.—From the evidence afforded by the presence of the 12 workable coal beds crossing the northwest half of this claim, together with the 5 lower coal horizons which must either cross the southeastern part or underlie it, it is believed that this claim is entirely underlain by many beds of coal and is therefore coal land.

LOBSTER CLAIM.

General statements.—The Lobster claim is situated fifth from the east in the second tier of claims from the north, on the southern slope of Monument Mountain. It is bounded on the north by the Frick, east by the Socorro, south by the Deposit, west by the Octopus, and includes an area of 159.201 acres. With the exception of the northwest corner, where the Tokun formation occurs, the Kushtaka, the principal coal-bearing formation of this district, occupies the surface. The rocks dip at angles varying from 25 to 35 degrees northwest and strike northeast. Five different coal beds, one having a thickness of 18 feet 9 inches, have been prospected in the northwest corner of this claim, and just across the boundary line to the east, in the Socorro, 12 other beds of workable thickness have been opened. These 17 beds, aggregating over 100 feet of coal, cross the southern portion of this claim, dipping to the northwest under its northwestern corner. The location of the prospects within this claim, also the boundary between the Tokun and Kushtaka formations, are shown on the map of the claim which accompanies this report.

Timber.—A small portion of the southeast corner of the Lobster claim is covered by a relatively sparse growth of timber. The greater part of its area is either bare or covered with grass and small brush.

Conclusion.—From the evidence afforded by the seventeen different beds above referred to, which cross this claim from northeast to southwest, all of which underlie it, the claim is believed to be entirely underlain by one or more beds of workable coal and is therefore coal land.

OCTOPUS CLAIM.

General statements.—The Octopus claim is situated sixth from the east in the second tier of claims from the north, on the southeast slope of the higher portion of Cunningham Ridge. It is bounded on the north by Victor, east by Lobster, south by Candelaria, west by Maxine, and includes an area of 159.201 acres. The northern half of this claim is occupied by the Tokun formation, and the southern half by the Kushtaka, the former a noncoal-bearing and the latter the principal coal-bearing formation of the district. The rocks dip at angles varying from 25 to 30 degrees in a northwesterly direction, with strike to the northeast. Four different coal beds, one having a thickness of 17 feet, with one 9-inch parting in the lower half, have been prospected in the southern part of this claim. These coal beds, with their northwest dip at an angle of 25 to 30 degrees, pass under the higher portion of the Cunningham Ridge, which occupies the north and northwest portions of this claim, at relatively shallow depths. The location of these prospects, also the boundary between the Tokun and Kushtaka formations, are shown on the map of the claim which accompanies this report.

Timber.—The entire area of this claim lies above timber line, and consequently the surface is either bare or covered with a thick carpet of grass, brush, and reindeer moss.

Conclusion.—From the evidence afforded by the five coal prospects within this claim, together with six or seven additional beds which are known to occur higher in the section and exposed in the Maxine, it is certain that the entire area within this claim is underlain by one or more workable beds of coal and is therefore coal land.

MAXINE CLAIM.

General statements.—The Maxine claim is situated seventh from the east in the second tier of claims from the north, on the southwest slope of Cunningham Ridge. It is bounded on the north by Cunningham, east by Octopus, south by Agnes, west by Collier, and includes an area of 159.241 acres. The northwestern corner of this claim is occupied by the Tokun formation and the remainder by the Kushtaka, the former a noncoal-bearing and the latter the principal coal-bearing formation of this district. The rocks dip at an angle of 25 to 30 degrees in a northwesterly direction, with strike to the northeast. Nine different coal beds, ranging in thickness from 18 inches to about 12 feet, have been prospected along Esplen Creek, which crosses the central part of this claim. These coal beds, with their northwesterly dip, underlie the entire northern part of this claim. Below them, and exposed along Bear Creek in the Agnes claim, which adjoins Maxine on the south, there are nine distinct coal beds with northwesterly dip, which must underlie the Maxine claim. The location of the prospects within the Maxine claim, also the boundary between the Tokun and Kushtaka formations, are shown on the map of the claim which accompanies this report.

Timber.—About one-third of the area of this claim is covered by a sparse growth of timber, while the remainder is covered by the usual high-mountain vegetation, namely, grass, brush, and an occasional spruce or alder. The boundary between the timber and nontimber land is also shown on the map of the Maxine claim.

Conclusion.—From the evidence afforded by the prospects shown within the limits of this claim, together with those which have been examined on the Agnes claim, adjoining on the south, which must also underlie the Maxine, it is certain that the entire area included within this claim is underlain by many workable beds of coal, and is therefore coal land.

COLLIER CLAIM.

General statements.—The Collier claim is situated at the extreme west end of the second tier of claims from the north, on the southwest slope of Cunningham Ridge. It is bounded on the east by Maxine, south by Tenino, and includes an area of 159.320 acres. Across the north side of this claim the surface rocks belong to the Tokun formation, while the remainder of the claim is covered by the Kushtaka formation, the former a noncoal bearing and the latter the principal coal-bearing formation of the district. Across the west side of this claim both of the above-described formations are covered by morainal deposits. The rocks dip throughout this claim at an angle of 40 to 45 degrees to the northwest, with the usual northeasterly strike. Eight coal prospects were opened along Trout Creek, representing several different coal beds whose outcrop zone crosses the claim from northeast to southwest, and whose northwesterly dip causes them to underlie the entire northern portion of the Collier claim. Beneath these coals and lower down in the series of coal-bearing rocks there are ten or more workable coals, one of which has a thickness of 31 feet, which must underlie at greater or less depths the area included in this claim. The location of the prospects within the Collier claim, also the boundary between the Tokun and Kushtaka formations and the morainal deposits, are shown on the map of the Collier claim which accompanies this report.

Timber.—About half of the area included within this claim is covered by a relatively dense growth of spruce and hemlock timber, while the remainder of the surface has the usual covering of grass and shrubs.

Conclusion.—From the evidence afforded by the prospects within the limits of this claim, together with those which have been examined on the Tenino claim, adjoining on the south, which also underlie the claim, it is certain that the entire area of this claim is underlain by many workable beds of coal, and is therefore coal land.

RUTLAND CLAIM.

General statements.—The Rutland claim is situated at the extreme west end of the third tier of claims from the north, and includes the summit and western slope of Trout Creek Ridge, also a part of the Kushtaka Glacier. It is bounded on the east by Tenino, south by Adrian, and includes an area of 159.320 acres. The formations outcropping in this claim are the Kushtaka, which is so prolifically coal bearing, and the morainal deposits, which cross the area as a narrow zone from northeast to south-

west, bordering the edge of the Kushtaka Glacier. The location of the boundary between the Kushtaka formation and the morainal deposits is shown on the map of the Rutland claim which accompanies this report. The rocks dip throughout this claim to the northwest in the usual manner, and strike northeast, the angle of dip on the east side of the claim being about 35 to 40 degrees. On the west side of Trout Creek Ridge, near the margin of the glacier, some local irregularity in structure occurs, which has been noted by Martin in his map of the Bering River coal field. No coals were found outcropping on this claim, but in the Tenino, which adjoins it on the east, 10 or more different beds of coal were prospected, which exhibited an aggregate thickness of about 90 feet of coal. These beds all cross in their outcrop zone the east ace of Trout Creek Ridge, dipping into the hill to the northwest and passing under the area of the Rutland claim.

Timber.—About one-fifth of the area of the Rutland claim is covered by a moderately dense growth of spruce and hemlock timber, while the remainder is either grass covered, with an occasional clump of stunted spruce and alder, or occupied by the Kushtaka Glacier. The boundary between the timber and nontimber land is shown on the map of the Rutland claim which accompanies this report.

Conclusion.—From the evidence afforded by the large number of prospects on the Tenino claim, which adjoins this claim on the east, it is certain that the entire area of the claim is underlain by a very large thickness of coal, and is therefore coal land.

TENINO CLAIM.

General statements.—The Tenino claim is situated second from the west of the third tier of claims from the north and includes the valley of Trout Creek and lower slopes of Cunningham and Trout Creek ridges. It is bounded on the north by the Collier, east by the Agnes, south by Adams, west by Rutland, and includes an area of 159,401 acres. The Kushtaka, the principal coal-bearing formation of this region, outcrops at the surface over the entire claim, with beds dipping at an angle of 45 degrees to the northwest, and strike northeast. This claim has been prospected by previous workers more than any other claim within the district. During the present investigation at 30 different localities coals were faced up and measured within the boundaries of this claim. These prospects represent at least 10 or more distinct beds, with an aggregate thickness of about 90 feet of coal. One of these beds alone has a thickness of 31 feet. Owing to lack of exposures, very few coal prospects were located across the east side of this claim, but the outcrop zone of the beds prospected along Trout Creek in their northeastward extension must pass through this portion of the claim and their coals underlie it. The location of the prospects and tunnels within the claim, also the thicknesses of the coals at the respective localities, are shown on the map of the Tenino claim which accompanies this report.

Timber.—The greater part of the area included within the Tenino claim is covered by a rather dense growth of timber. In the extreme northwest corner, on the higher slope of Trout Creek Ridge, there is a small area of nontimber land. Also in the extreme northeast corner, along Esplen Creek, there are small areas in which only alder and brush occur.

Conclusion.—From the abundant evidence furnished by the prospects within the boundaries of this claim, it is believed that the entire area is underlain by a very large thickness of coal and is therefore coal land.

AGNES CLAIM.

General statements.—The Agnes claim is situated third from the west of the third tier of claims from the north, on the west slope of Cunningham Ridge. It is bounded on the north by Maxine, east by Candelaria, south by Albion, west by Tenino, and includes an area of 159,281 acres. The Kushtaka, the principal coal-bearing formation of the district, outcrops at the surface over the entire claim, with beds dipping at an angle ranging from 35 to 45 degrees northwest, and with a general northeast strike. This claim has been prospected at 13 different localities, representing at least 10 distinct beds of workable coal. One of these beds has a thickness of 16 feet 8 inches, and the others range from 1 foot 2 inches to 9 feet of coal. These prospects are located mainly along Bear Creek, which traverses the central portion of the claim from northeast to southwest, and have their outcrop zone extending in either direction across the claim. The location of these prospects and their respective thicknesses are shown on the map of the Agnes claim, which accompanies this report.

Timber.—About one-half of the area of this claim (the southwestern portion) is covered by forest, while the northeast half, which occupies the higher slopes of the Cunningham Ridge, is mainly grass covered. The boundary between the timber and nontimber land is shown on the map of the Agnes claim.

Conclusion.—From the evidence afforded by the prospects along Bear Creek within the limits of this claim, it is believed that its entire area is underlain by one or more workable beds of coal and is therefore coal land.

CANDELARIA CLAIM.

General statements.—The Candelaria claim is situated fourth from the west of the third tier of claims from the north, and includes the summit and higher east and west slopes of Cunningham Ridge. It is bounded on the north by Octopus, east by Deposit, south by Ansonia, west by Agnes, and includes an area of 159.241 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops at the surface over the entire claim, with beds dipping at angles ranging from 25 to 40 degrees to the northwest, and strike northeast. Four prospects were opened, measured and located on this claim. The thickest of the beds shown in these prospects is 20 feet. The distribution of this bed within the claim is confined to the northwest part, where it underlies the southern end of Cunningham Ridge. Owing to lack of suitable exposures on the grass-covered slopes of the southeast part of this claim, no coal beds were found, but there is known to exist below the 20-foot bed above described seventeen or more beds of coal of workable dimension, all of which should underlie at depths probably less than 3,000 feet the southeast portion of the claim. The location of the four prospects and the respective thicknesses of the coal beds are shown on the map of the claim, which accompanies this report.

Timber.—The greater part of this claim lies above the timber line, the surface being covered by grass and small brush, with here and there a clump of stunted spruce trees.

Conclusion.—From the evidence afforded by the prospects which were opened on this claim, together with the knowledge of the large number of lower coal beds which must, under the existing structural conditions, underlie it, it is believed that the entire claim is underlain by a very large thickness of coal and hence is coal land.

DEPOSIT CLAIM.

General statements.—The Deposit claim is situated fifth from the west in the third tier of claims from the north on the southeast slope of Cunningham Ridge. It is bounded on the north by Lobster, east by Carlsbad, south by Avon, west by Candelaria, and includes an area of 159.161 acres. The Kushtaka and Stillwater formations both outcrop within the boundaries of this claim, the former occupying about four-fifths of the area and the latter one-fifth. The line of contact between these two formations crosses the southeast portion of the claim. Its exact location is shown on the map of the claim which accompanies this report. Eight prospects were opened within this claim, lying mainly along Moore Creek, and representing at least six distinct coal beds ranging in thickness from 1 to 12 feet. These coal beds occupy a position in the lower part of the coal-bearing series of this district. There are, however, still lower stratigraphically in the rocks of this district, a number of workable coal beds, three or more of which have been prospected on Lyons Creek in the Lyons claim, which corners the Carlsbad claim on the southeast. The location of the various prospects and the respective thicknesses of the coal beds are shown on the map of the claim accompanying this report.

Timber.—The greater part of this claim lies below the timber line and is covered by a dense growth of spruce and hemlock forest. The nontimber portion lies in the northwest corner, as is shown by reference to the map of this claim.

Conclusion.—From the six workable coal beds prospected along Moore Creek within this claim, whose outcrop zones traverse the claim in a northeast-southwest direction, it is evident that the entire area is underlain by one, and portions of it by many, workable beds of coal, and is therefore coal land.

CARLSBAD CLAIM.

General statements.—The Carlsbad claim is situated sixth from the west in the third tier of claims from the north, and includes the valley of Clear Creek and the lower slope of Cunningham and Canyon Creek ridges. It is bounded on the north by Socorro, east by Calais, south by Lucky Baldwin, west by Deposit, and includes an area of 159.241 acres. The Kushtaka and Stillwater formations both outcrop within the boundaries of this claim, the former occupying the northern two-thirds of the area and the latter the southern one-third. The line of contact between these two formations, as determined by Martin, is shown on the map accompanying this report. The rocks dip at an angle of 35 to 45 degrees northwest, and strike northeast. Two prospects were opened on this claim, which are located on the east side of Clear

reek, in the northern part of the area. These two prospects are believed to have been opened on the same coal bed. Its outcrop zone extends from northeast to southwest along Clear Creek, and is believed to cross Moore Creek near the point where that stream enters the Carlsbad claim, although its exact location was not determined, owing to the lack of suitable exposures on that creek. This coal has been regarded by previous workers as the lowest in the series of coal-bearing rocks of this district, but from evidence obtained in the present investigation it is believed that there are at least three, and possibly more, workable beds of coal stratigraphically below this horizon. The coals referred to are the ones prospected on Lyons Creek, in the Lyons claim, which are regarded as at least 300 to 500 feet lower in the coal-bearing series. Reports are also current in the district of workable beds of coal which have been opened in the Canyon Creek Ridge one-half to a mile south of the south line of the Cunningham property. These prospects were not examined by the writer, but if they exist, as reported, the general strike of the rocks in this district would either correlate them with the beds prospected on Lyons Creek, or, more probably, they would be found to be lower than these coals in the stratigraphic column. The location and thickness of the coals prospected along Clear Creek are shown on the map of the Carlsbad claim which accompanies this report.

Timber.—The entire area of the Carlsbad claim, excepting a narrow belt along Clear Creek, is covered by a dense growth of spruce and hemlock forest.

Conclusion.—From the evidence afforded by the beds prospected on the east side of Clear Creek, whose outcrop zone is believed to pass diagonally across the claim from northeast to southwest, and to underlie at least the northwest part of the claim, together with the strong probability of the lower coals prospected on Lyons Creek, underlying the southeast part of the claim, it is believed that its entire area is underlain by one or more beds of workable coal and is therefore coal land.

CALAIS CLAIM.

General statements.—The Calais claim is situated seventh from the west in the third tier of claims from the north, on the lower northwest slope of Canyon Creek Ridge. It is bounded on the north by the Clear, east by the Bozeman, south by the Lyons, west by the Carlsbad, and includes an area of 159.121 acres. The Kuahtaka and Stillwater formations both outcrop within the boundaries of this claim, the former occupying the northern five-sixths and the latter the southern one-sixth. The beds dip at angles of 40 to 45 degrees to the northwest, and the strike is to the northeast. The line of contact between these two formations, as determined by Martin, is shown on the map accompanying this report. Eight prospects were opened along Fisher Creek and its tributaries throughout the northern half of this claim. The thickness exhibited by these prospects, which represent several different beds of coal, ranges from 20 inches to 13½ feet. The outcrop zone of these various beds is believed to extend northwest and southeast across the claim. The beds are also believed to occupy a stratigraphic position below the middle of the coal-bearing series. The location and thickness of the coal prospected along Fisher Creek and its tributaries are shown on the map of the claim accompanying this report.

Timber.—The greater part of the area within this claim lies below timber line, and is therefore covered by a dense growth of spruce and hemlock. A small area in the extreme southeast corner lies above timber line, as is shown on the map of this claim.

Conclusion.—From the evidence afforded by the various prospects opened on this claim, together with that of lower beds which must underlie its area, it is believed that the entire claim is underlain by several beds of coal of workable thickness and is therefore coal land.

BOZEMAN CLAIM.

General statements.—The Bozeman claim is situated eighth from the west in the third tier of claims from the north, on the west slope of Canyon Creek Ridge. It is bounded on the north by Tampa, east by Boston, south by Bedford, west by Calais, and includes an area of 158.882 acres. The Kuahtaka, the principal coal-bearing formation of this district, occupies the surface over the entire area. The beds dip at an angle of about 45° to the northwest and strike northeast. Only two prospects were located on this claim, owing mainly to the lack of suitable exposures on the higher grass-covered slopes of Canyon Creek Ridge. Throughout the claims bordering the Bozeman, however, on the west, south, and east, coal beds were opened which, from their general dip and strike, also their direction of outcrop zone, are believed to underlie this claim. The location and thickness of the two prospects above mentioned are shown on the map of the Bozeman claim accompanying this report.

Timber.—The greater part of the area of this claim lies above timber line, and consequently its surface is covered with grass and small shrubs. Across the northwest portion a belt of timber land extends, the limits of which are shown on the claim map.

Conclusion.—From the evidence afforded by the 4½-foot bed of coal outcropping on Fisher Creek, in the northern part of this claim, together with that of the numerous lower coal beds stratigraphically which outcrop on adjoining claims to the west, south, and east, which should underlie this claim, it is believed that it is underlain by several beds of workable coal and is therefore coal land.

BOSTON CLAIM.

General statements.—The Boston claim is situated at the extreme east end of the third tier of claims from the north, and includes a part of the summit and eastern slope of Canyon Creek Ridge. It is bounded on the north by Tular, west by Bozeman, and includes an area of 158.762 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops over the surface of the entire claim, with beds dipping at angles varying from 40 to 50 degrees to the northwest and strike northeast. Only three coal prospects were located on this claim, owing largely to the inaccessible character of the east face of Canyon Creek Ridge, which made prospecting extremely difficult. The thickest bed shown by these prospects was 2 feet 7 inches, which was located in the northwest part of the claim. Near the center of Bedford claim, which corners the Boston on the southwest, there is a coal bed 3½ feet thick whose outcrop zone crosses the Canyon Creek Ridge at the low saddle just south of Winchell Peak and extends northeastward across the steep eastward-facing bluff of Canyon Creek Ridge. This bed must cross the Boston claim from north to south near its central portion and underlie its western half. Still farther south on this ridge and beyond the limits of the Cunningham property there is a bed of coal over 7 feet thick crossing the summit of the ridge and extending in outcrop zone northeast toward the Boston claim, crossing it somewhere low on the slopes of the east face of Canyon Creek Ridge, and hence underlie the greater portion of that claim. The location of the coal prospects on the Boston claim, and their respective thicknesses, are shown on the map of the claim accompanying this report.

Timber.—The western half of the Boston claim lies above timber line, and is consequently barren of forests. The eastern half is covered by a rather dense growth of spruce and hemlock timber.

Conclusion.—It is believed from the evidence afforded by the two coal prospects located near the summit of Canyon Creek Ridge in the western part of this claim, and that of the lower beds above described crossing the ridge farther south whose outcrop zone in their northern extension must cross this claim low on the ridge to the east, that the greater part, if not the entire claim, is underlain by coals of workable thickness and is therefore coal land.

BEDFORD CLAIM.

General statements.—The Bedford claim is situated at the extreme east end of the southernmost tier of the Cunningham group of claims, and includes the summit and higher slopes of Canyon Creek Ridge. It is bounded on the north by Bozeman, west by Lyons, and includes an area of 159.201 acres. The Kushtaka and Stillwater formations both outcrop within the boundaries of this claim, the former occupying the northern one-half and the latter the southern half of the area. The line of contact between these formations, as determined by Martin, is shown on the map of the claim accompanying this report. The dip of the rocks is 40 degrees northwest, and the strike northeast. Only two prospects were opened on this claim. These are believed to be on the same bed, which has a thickness of about 3½ feet. This bed crosses the Canyon Creek Ridge at the low saddle just south of Winchell Peak, extending in its outcrop zone to the northeast and northwest on either side of the ridge and underlying the northern and northeastern parts of the claim. The southern part of this claim is underlain by a bed of coal 7 feet thick, which crosses the summit of Canyon Creek Ridge about 500 feet south of the southern boundary of the claim. The location of the two prospects on this claim and their respective thicknesses are given on the map accompanying this report; also the location of the 7-foot bed is shown on the margin of the map.

Timber.—The greater part of this claim lies above timber line, and the surface is covered by grass and small brush. In the southeast corner there is a belt of timber composed mainly of spruce and hemlock trees. The boundaries of the timber and non-timber land are shown on the map.

Conclusion.—From the evidence afforded by the two prospects which occur within the claim and the 7-foot bed which crosses Canyon Creek Ridge to the south of this claim, it is believed that its entire area is underlain by coal of workable thickness and is therefore coal land.

LYONS CLAIM.

General statements.—The Lyons claim is situated second from the east in the southernmost tier of the Cunningham group of claims, on the western slope of Canyon Creek Ridge. It is bounded on the north by the Calais, east by the Bedford, west by Lucky Baldwin, and includes an area of 155.447 acres. The Kushtaka and Stillwater formations occupy the surface throughout this claim, the former in the extreme northeast corner and the latter the remainder of the area. The line of contact between these two formations is shown on the map accompanying this report. The beds dip at an angle ranging from 35 to 50 degrees to the northwest and strike northeast. Only three coal prospects were located on this claim, two near the northern border and a third on Lyons Creek, near the west boundary of the claim. The coal shown at these prospects range from 2 feet 11 inches to 4 feet in thickness. The direction of the outcrop zone of these beds is northwest and southeast, and the coal underlies the higher slopes of Canyon Creek Ridge, which occupies the eastern half of this claim. To the southeast of the claim, on the summit of Canyon Ridge, the 7-foot bed of coal previously referred to is located. The outcrop zone of this bed extends diagonally to the northwest across Lyons claim, and its coal underlies the greater portion of its entire area. To the west, in the Lucky Baldwin claim on Lyons Creek, at least three distinct workable beds of coal have been prospected, which are believed to be lower stratigraphically than those on Lyons claim and which in all probability underlie this entire claim.

Timber.—The western two-thirds of the Lyons claim lies below timber line, and is covered by a moderately dense growth of spruce and hemlock. The remainder is covered by the usual grass and shrubs of the higher slopes. The boundary between the timber and nontimber land is shown on the map.

Conclusion.—It is believed from the evidence afforded by the prospects within this claim and those to the south and west of it that its entire area is underlain by at least one bed of coal and that portions of it are underlain by more than one bed. Consequently, it is regarded as coal land.

LUCKY BALDWIN CLAIM.

General statements.—The Lucky Baldwin claim is situated third from the east in the southernmost tier of the Cunningham group of claims, in Clear Creek Valley, and on the lower western slope of Canyon Creek Ridge. It is bounded on the north by Carlsbad, east by Lyons, west by Avon, and includes an area of 159.241 acres. The Stillwater formation outcrops at the surface throughout the entire area, with beds dipping at angles ranging from 30 to 45 degrees to the northwest and north, and strike northeast and east. Seven prospects were opened and located on this claim, which exhibit at least three distinct coal beds ranging in thickness from 1 foot 9 inches to 3 feet 3 inches. The outcrop zone of these beds is believed to extend northwest and southeast across the claim, and the coal to underlie at least the northeast portion. The location of the prospects and the respective thicknesses of the coal are shown on the map accompanying this report.

Timber.—The entire area included within the Lucky Baldwin claim, excepting narrow zones along the immediate valley of Clear and Lyons creeks, is covered by a rather dense growth of spruce and hemlock timber.

Conclusion.—From the evidence afforded by the coal prospects in the northeast part of the Lucky Baldwin claim and the structural relation of the beds which they expose, it is believed that at least a third, and possibly one-half, of the area included in this claim is underlain by coal of workable dimension, and is therefore coal land.

AVON CLAIM.

General statements.—The Avon claim is situated fourth from the east in the southernmost tier of the Cunningham group of claims, in Clear Creek Valley and on the lower eastern slope of Cunningham Ridge. It is bounded on the north by Deposit, east by Lucky Baldwin, west by Ansonia, and includes an area of 159.201 acres. The Kushtaka and Stillwater formations outcrop on this claim; the former occupies a small area only in the extreme northwest corner and the latter the remainder of the claim. The rocks dip at angles of about 45 to 50 degrees to the northwest and strike northeast. Only one coal prospect was located on this claim. This was mainly due to the fact that none of the streams crossing it, excepting Clear Creek, trench the underlying rock sufficiently to expose the coals. The prospect above referred to is located in the extreme southeast corner of the claim, on the west bank of Clear Creek. It exhibits a bed of impure coal 12 inches thick, overlain by about 8 inches of coaly shale,

which in turn is overlain by 3 inches plus of coal. The true character of the bed at this place could not be definitely ascertained, owing to the fact that more or less landsliding had taken place where it was found. It indicates, however, that coal-forming conditions existed in the Stillwater formation as low as this horizon. On the Deposit claim, which joins the Avon on the north, there are at least six distinct beds of workable coal whose outcrop zone crosses Moore Creek, extending southward and passing under at least a portion of the Avon claim. During the investigation it was possible to trace one of these beds by examining it at frequent intervals from Moore Creek southward to a point about 400 feet from the north boundary of Avon claim, where it exhibited a thickness of over 2 feet. It is absolutely certain that this bed underlies at least a portion of Avon claim, and as there are several coal beds below this stratigraphically having the same general dip and strike their outcrop zone should cross the Avon claim from north to south or southwest lower down the slopes toward Clear Creek, and thus underlie a considerable portion of the claim. None of these beds were found on the claim, owing to the heavy veneering of moss and other vegetation. Coal float was found at several places along the small stream which flows southeastward across the Avon claim. This float could only be derived from the formation over which the stream bed traversed, and as this stream has its source within the boundaries of the claim the existence of the float coal is additional evidence of the presence of coal beds underneath.

Timber.—This claim is entirely covered by a dense growth of spruce and hemlock timber.

Conclusion.—While no coal beds of workable thickness were discovered within the boundary of the Avon claim, it is evident from the location of this claim with respect to other claims and the structural relations of the rocks exposed, that coal beds of workable thickness must underlie the surface of this claim. The beds believed to be present are those outcropping on the lower course of Moore Creek, and those still lower stratigraphically which outcrop on the Lyons claim. Owing to the above reasons, this claim is believed to be underlain at least in part, if not entirely, by workable beds of coal, and therefore is coal land.

ANSONIA CLAIM.

General statements.—The Ansonia claim is situated fifth from the east in the southernmost tier of the Cunningham group of claims, on the southeast slope of Cunningham Ridge. It is bounded on the north by Candelaria, east by Avon, west by Albion, and includes an area of 159.241 acres. The Kushtaka and Stillwater formations outcrop on this claim, the former occupying the northwest half and the latter the southeast. The rocks dip at an angle of about 30 degrees, and strike northeast. Two coal prospects were located on this claim, on the east side of the ridge at the extreme north side. One of these prospects exhibited a coal bed 4 feet 7 inches thick and the other 1 foot. The beds shown at these two prospects, judging from the general structural conditions on this claim, are believed to underlie the high ridge on the northwest corner of the claim. Throughout the remainder of the area to the southeast no coal beds were observed, but several coal beds are believed to occur stratigraphically lower than this bed, which should cross in their outcrop zone this part of the claim and cause the greater part of its area to be underlain by workable coal.

Timber.—About two-thirds of the claim is covered by a dense growth of forest and the remainder by grass and brush. The boundary between the timber and non-timber land is shown by the map accompanying this report.

Conclusion.—It is believed, from the evidence afforded by the prospects in the northeastern part of the Ansonia claim, together with those prospects found on the Deposit, which corners this claim on the northwest, that the greater part, if not the entire area, of this claim is underlain by workable beds of coal, and is therefore classified as coal land.

ALBION CLAIM.

General statements.—The Albion claim is situated sixth from the east in the southernmost tier of the Cunningham group of claims, on the southwest slope of Cunningham Ridge. It is bounded on the north by Agnes, east by Ansonia, west by Adams, and includes an area of 159.041 acres. The Kushtaka and Stillwater formations outcrop on this claim, the former occupying the northern four-fifths and the latter the southern one-fifth of the territory. The rocks dip at an angle of 43 degrees to the northwest in the northern part of the claim, and strike to the northeast. One coal prospect was located in the northeast part of this claim, on the west side of Cunningham Ridge which exhibits a thickness of coal 5 feet 7 inches. This coal is believed to underlie the northeast corner of the claim. Below it stratigraphically there are several beds

which have been opened on Bear Creek in the Agnes claim, just north of the north line of the Albion. Some of these prospects occur within 250 feet of the northwest corner of the Albion claim. From their location, structural relations, and direction of outcrop it is evident that these coal beds underlie a great part of the Albion claim.

Timber.—All excepting a narrow belt on the high ridge along the east side of the claim is covered by a dense forest. The boundary between the timber and non-timber land is shown on the map accompanying this claim.

Conclusion.—It is believed from the evidence afforded by the location of the prospects and the structural relation of the beds which they expose on the north side of the Albion claim, and the large number of prospects just across the line in the Agnes claim to the north, that much, if not the entire area of this claim, is underlain by several beds of workable coal, and is therefore coal land.

ADAMS CLAIM.

General statements.—The Adams claim is situated seventh from the east in the southernmost tier of the Cunningham group of claims, and includes the valley of Trout Creek and lower slopes of both Cunningham and Trout Creek ridges. It is bounded on the north by the Tenino, east by Albion, west by Adrian, and includes an area of 159.281 acres. The Kushtaka, the principal coal-bearing formation of this region, covers almost the entire area of the claim, but in the extreme southeast corner the Stillwater formation occurs, as is shown by reference to the map of this claim. The rocks dip at angles ranging from 35 to 45 degrees to the northwest, and strike northeast. Three coal prospects were located and measured on the west side of Trout Creek in the northwest corner of the claim. One of these prospects exhibited a thickness of 13 feet 1 inch of coal. A tunnel has been driven a distance of about 40 feet on a bed 6 feet 4 inches thick, which is located near the north boundary of the claim. South of the south boundary of the Adams claim, on a small stream emptying into Trout Creek, only a short distance above its mouth, three beds of coal of workable thickness are reported to have been recently opened. These beds are believed to be stratigraphically lower than those shown in the north part of the claim, and from their location and the general structural relation it is believed that they cross the Adams claim underlying a considerable portion of its territory. The location of the prospects and tunnel in the northern part of the claim are shown on the map accompanying this report.

Timber.—The entire area of the Adams claim is covered by a relatively dense growth of timber.

Conclusion.—The presence of coal of workable thickness in the northern part of this claim, also that of beds of coal stratigraphically lower south of its southern boundary, together with the structural relations of the rocks at this place, indicate that the greater portion of this claim is underlain by workable coal, and is therefore coal land.

ADRIAN CLAIM.

General statements.—The Adrian claim is situated at the extreme west end of the southernmost tier of the Cunningham group of claims and includes the summit and east and west slopes of Trout Creek Ridge. It is bounded on the north by Rutland, east by Adams, and includes an area of 159.161 acres. The Kushtaka, the principal coal-bearing formation of this district, outcrops at the surface over the entire claim excepting its northwest corner, where morainal deposits rest against the hill, obscuring the underlying rock. The boundary between the morainal deposits and the Kushtaka formation is shown on the map of the claim accompanying this report. The rocks dip at an angle of about 40 degrees to the northwest and strike northeast. No coal was located within the limits of this claim; but from the structure of the rocks and the position of the claim with respect to the Tenino and Adams claims, which join it on the east and northeast, it is certain that many of the different coal beds prospected along Trout Creek in the Adams and Tenino claims cross the Adrian claim.

Timber.—The entire area of this claim is covered by a moderately dense growth of spruce and hemlock timber.

Conclusion.—While no coal exposures, as stated above, were found outcropping on this claim, the structural relations of the rocks and the numerous prospects on the adjoining claims to the east and northeast indicate clearly that this entire claim is underlain by many beds aggregating a very large thickness of coal, and it is therefore coal land.

RÉSUMÉ.

The foregoing conclusions, relative to the coal or noncoal character of the above-described claims, are based, with one exception, upon evidence obtained from prospects located within the limits of the Cunningham group, the district to which the

present investigation was confined. It is possible that workable coal beds exist lower in the stratigraphic column than those found in the present investigation. In fact, reports are current of coal of workable dimension having been prospected in the southern end of Canyon Creek Ridge. If these coals exist and the structural conditions remain unchanged to the south, they would in their northward extension underground cause the area underlain by workable coal to extend farther southward than at present assumed. No definite evidence as to the existence of these lower coals was obtained other than that afforded by the small prospect found on the west side of Clear Creek, in the extreme southeast corner of the Avon claim, which indicates that coal-forming conditions existed down to that point in the stratigraphic column.

C. A. FISHER.

SEATTLE, WASH., October 30, 1909.

The CHAIRMAN. Is the last witness here—Mr. Barr?

TESTIMONY OF W. W. BARR—Resumed.

Senator PURCELL. I should like to ask a question or two before he commences.

The CHAIRMAN. Certainly.

Senator PURCELL. Mr. Barr, what do you have to pay for this scrip that you buy from the Northern Pacific road?

Mr. BARR. Why, the scrip that I bought, the last scrip I bought, I think I paid \$12.25 an acre for.

Senator PURCELL. Now, that was scrip that was issued by the Government to the Northern Pacific road; is that right?

Mr. BARR. I understand so.

Senator PURCELL. To compensate the railroad company for lands which they had lost and which could not be replaced?

Mr. BARR. Yes, sir.

Senator PURCELL. The purchase of this scrip, will it enable you to locate on any land?

Mr. BARR. I understand the scrip—there are different kinds of scrip.

Senator PURCELL. Yes; but this particular scrip. What land can you take?

Mr. BARR. It is applicable to that indemnity selection.

Senator PURCELL. That is, you may turn this scrip into the Government to pay for these lands within this indemnity selection that you speak of?

Mr. BARR. Yes, sir.

Senator PURCELL. And therefore the lands that you say you and Mr. Glavis are interested in could be paid for to the Government by the turning in of this scrip at \$12 per acre?

Mr. BARR. Well, there is a part of that scrip that costs \$8.25.

Senator PURCELL. It is different prices?

Mr. BARR. Yes, sir; the price is raised on it.

Mr. OLMSTED. Mr. Barr, you stated that the State selected some new land under the impression that they had lost some lands that they had formerly located.

Mr. BARR. Yes, sir; it had been given them.

Mr. OLMSTED. How is that?

Mr. BARR. It is a part of—I think the base of this selection was State school land, section 16—

The CHAIRMAN. The land that was lost they call it the base.

Mr. OLMSTED. You say they did not lose the base land?

Mr. BARR. No, sir; that is our contention.

Mr. OLMSTED. How did the State come to think that it had lost it?

Mr. BARR. Why, I think there had been entries made upon these lands—coal entries.

Senator ROOT. What is that?

Mr. BARR. Coal entries. Declaratory statements had been filed against this land.

Mr. OLMSTED. Coal entries against this particular land?

Mr. BARR. Against the base land.

Mr. OLMSTED. Against the base land?

Mr. BARR. Yes, sir.

Mr. OLMSTED. Well, now, how did you determine that the State had not lost the base land and was therefore not entitled to make, what you call it, a lieu selection?

Mr. BARR. I had Mr. Glavis go over that.

Mr. OLMSTED. When?

Mr. BARR. Why, it was in November.

Mr. OLMSTED. Not before that?

Mr. BARR. No, sir. I had never heard of it before that time.

Mr. OLMSTED. How did you hear of it then?

Mr. BARR. Through Mr. Glavis.

Mr. OLMSTED. He told you that he thought the State had not lost the base lands and therefore was not entitled to make these lieu selections?

Mr. BARR. Yes, sir.

Senator PURCELL. The question then is not determined.

Mr. BARR. How is that?

Senator PURCELL. That is, it has not been determined whether or not the State lost the base lands? That question has not been determined?

Mr. BARR. No; that has not been determined yet.

The CHAIRMAN. That is a case still pending before the Land Office, is it not?

Mr. BARR. Yes, sir.

Senator PURCELL. So that there is a contest now pending over that right to script these lands?

Mr. BARR. The protest has been filed in the Vancouver land office through Moulten & Scobey, land attorneys there, against this base.

Senator PURCELL. And the determination of your rights to these lands all rests with the department?

Mr. BARR. Yes, sir.

Senator ROOT. Mr. Barr, you say that you heard of this through Mr. Glavis; did he tell you of some specific case, of this specific land, or did he suggest to you in general that it was worth while to look up such cases?

Mr. BARR. I think he called my attention to this specific case.

Senator ROOT. And when was that?

Mr. BARR. In November.

Senator ROOT. How did he learn about it?

Mr. BARR. Why, he must have looked it up.

Senator ROOT. Where would he look it up?

Mr. BARR. He would have to look it up at the state land office at Olympia and also in the Vancouver land office.

Senator PURCELL. It would be his duty, would it not, as an inspector, to notify the department that the State of Washington, if the facts were true, was claiming land that it was not entitled to?

Mr. BARR. I do not know anything about his duties.

Senator PURCELL. Well, that would be ordinarily a part of the duties of an inspector, would it not?

Mr. BARR. I do not know, sir.

Senator PURCELL. In other words, they would show no favoritism to the State, any more than they would to an individual?

Mr. BARR. They should not.

Senator PURCELL. And if the State of Washington was attempting to acquire land it was not entitled to, it would be Mr. Glavis's duty to so report it, would it not?

Mr. BARR. I do not know whether that indemnity selection came under that or not.

Senator PURCELL. That is not the question.

Mr. BARR. Well, I do not know, sir.

The CHAIRMAN. Proceed, Mr. Vertrees.

Mr. VERTREES. In what county do these lands lie?

Mr. BARR. In Lewis County.

Mr. VERTREES. I would like to see that agreement that you spoke of yesterday, between you and Mr. Glavis, the memorandum or agreement, as you called it.

Mr. BARR. I haven't it here.

Mr. VERTREES. I thought you said you had it in the city.

Mr. BARR. I have it in Seattle.

Mr. VERTREES. You can produce it?

Mr. BARR. Yes, sir.

Mr. VERTREES. Well, I will ask you to do so.

Mr. BARR. I have already wired for it.

Mr. BRANDEIS. Do you say, Mr. Barr, that you have already wired for the agreement that you referred to?

Mr. BARR. I have wired for that agreement.

Mr. BRANDEIS. You did it yesterday?

Mr. BARR. I did it last night.

Mr. VERTREES. Have you more than one agreement with him?

Mr. BARR. No, sir.

Mr. VERTREES. Only one?

Mr. BARR. Yes, sir.

Mr. VERTREES. And you have sent for that and it will be here?

Mr. BARR. Yes, sir.

Mr. VERTREES. And you will file it when it comes?

Mr. BARR. Yes, sir.

Senator ROOT. Mr. Barr, did Mr. Glavis tell you when and how he learned of the fact that this particular land might be free for entry?

Mr. BARR. I think he ascertained those facts while he was in Vancouver.

Senator ROOT. He told you so?

Mr. BARR. Yes, sir.

The CHAIRMAN. That is where the United States land office is, at Vancouver, is it not?

Mr. BARR. Yes, sir.

Senator ROOT. Upon what occasion; do you know the occasion of his being at Vancouver?

Mr. BARR. No, sir; I do not recall the occasion, what he was there for. I think he had been up to his ranch.

Mr. BRANDEIS. When was this?

Senator ROOT. He did not quite finish.

Mr. BRANDEIS. I beg your pardon.

Mr. BARR. I was going to say that that was when he was going through, when he was in Portland.

Senator ROOT. What was that?

Mr. BARR. He was in Portland when he came down from his ranch in November; I think it was about November 15.

Senator ROOT. Well, did he tell you when and how he learned of this?

Mr. BARR. He called my attention to it at that time.

Senator ROOT. But did he tell you when and how he learned it?

Mr. BARR. No, sir; I do not recall that he did.

Senator ROOT. He simply told you that there was such a case?

Mr. BARR. I think so.

Senator ROOT. You can not remember anything else?

Mr. BARR. I think he called my attention to these lands that he thought could be scripted at this time.

Senator ROOT. Yes; I know. Search your memory and see if you can not remember anything that he said to you as to how he knew this.

Mr. BARR. I think he told me that he had gone over the indemnity selection list which was on file at the Vancouver office, which was open to the inspection of anybody.

Senator SUTHERLAND. I may have misunderstood you yesterday, Mr. Barr, but my recollection is that you stated that you arranged with Mr. Glavis to go down to Vancouver to look into this matter.

Mr. BARR. No; I went to Olympia to look up the base there, to be certain before I went ahead whether they still owned the base.

Senator SUTHERLAND. Well, then it is not a fact that the first you heard of this matter was from Mr. Glavis after he had been to Vancouver and looked at the records there?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. That is the first you heard of it?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. The Vancouver you speak of, Mr. Barr, is right near Portland, Oreg.?

Mr. BARR. Yes, sir; it is just across the river.

Mr. BRANDEIS. And you were speaking about November, that it was in November that you heard of this. What November is that?

Mr. BARR. November, 1909.

Mr. BRANDEIS. That was, then, the November which was two months after Mr. Glavis left the service?

Mr. BARR. Yes, sir.

Mr. VERTREES. I would like to have the witness describe those lands. Do you recall the numbers and sections? You said they were in Lewis County.

Mr. BARR. I can not give the legal description of them, or all the subdivisions of them, because I can not remember them.

Mr. VERTREES. Have you any data by which you could inform us?

Mr. BARR. Not here. I could tell practically the sections they are in and the township.

Mr. VERTREES. Well, give us that, please.

Mr. BARR. I think there are 9 forties in section 30, 4 in section 32. and 4 or 5 in section 28.

The CHAIRMAN. What township and range?

Mr. BARR. Township 14 north, range 6 east.

Mr. VERTREES. You also mentioned the fact just a moment ago that Mr. Glavis had gone down to his ranch. Has he a ranch out there?

Mr. BARR. I understand he has.

Mr. VERTREES. Where is that located?

Mr. BARR. I do not know the description of it.

Mr. VERTREES. Does he own it alone or in conjunction with somebody?

Mr. BARR. I do not know, sir.

Mr. VERTREES. What sort of a ranch is it?

Mr. BARR. It is one of those apple orchards out there. Everything is called a ranch out there.

Mr. MADISON. How many acres are in it; do you know?

Mr. BARR. No, sir; I do not know.

Mr. MADISON. Do you know approximately about how large a ranch it is?

Mr. BARR. I do not know. I think it is about 80 acres. But I do not know positively about it.

Mr. JAMES. So they call an apple orchard a ranch out there?

Mr. BARR. Yes, sir; they call 5 acres a ranch out there in that country; everything is called a ranch.

Mr. BRANDEIS. You never have seen it; you never have been there to this place you are speaking of, this orchard?

Mr. BARR. I think I have driven by it.

(The witness was thereupon excused.)

Mr. BRANDEIS. Is Mr. Kennedy here?

MR. ANDREW KENNEDY RECALLED FOR FURTHER EXAMINATION.

Mr. VERTREES. Mr. Kennedy, you were to look up, and if you could find them, you were to introduce some letters written to you by Mr. Glavis with respect to your field examinations in Alaska. Have you found them?

Mr. KENNEDY. I have found two letters which he wrote me while I was in the field.

Mr. VERTREES. Were there any more?

Mr. KENNEDY. No more that I have, if there were any.

Mr. VERTREES. These are all that you remember?

Mr. KENNEDY. Yes; and I think these are all there were.

Mr. VERTREES. Will you please read them to the committee.

Mr. KENNEDY. There is also one correction before I get through that I would like to make in my testimony of yesterday.

Mr. VERTREES. All right.

Mr. KENNEDY (reading):

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Portland, Oreg., July 31, 1909.

MR. ANDREW KENNEDY,
Special Agent, General Land Office, Katella, Alaska.

DEAR KENNEDY: This will introduce to you Mr. Gabriel Wingate, who has been employed in the Forest Service to cooperate with you in the examination of the coal lands within the national forest. His appointment has been made upon my recommendation, as I know he is a very reliable and competent expert.

Mr. Wingate is rather an elderly man and I know you will show him every consideration possible. I am personally anxious that you both work together in perfect harmony, and while it is understood by the Forest Service and myself that you have entire charge of these investigations, I am personally anxious that your relationship with Mr. Wingate should be of the most pleasant kind. Don't leave anything undone, I am unable to impress upon you the importance of having your trip a most successful one.

I suggest, as you will see in Mr. Wingate's letter, that he locate himself at various points in order to testify as to the ground which he is examining, from his personal knowledge. This will be a very good thing for you to do. The location therefore of the claims will not be dependent upon one person.

Yours, very truly,

L. R. GLAVIS.

Am going to the orchard to-day.

The CHAIRMAN. That document is admitted in evidence.

Mr. KENNEDY. Shall I read the second letter?

Mr. VERTREES. Yes.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Seattle, Wash., July 28, 1909.

Mr. ANDREW KENNEDY,
Special Agent General Land Office, Katalla, Alaska.

SIR: I think that you and Mr. Stoner already realize the great importance attached to your field examinations, but I again wish to call your attention to the necessity for complete and thorough examinations on the ground, especially in the Cunningham group. Your examination in this group should show the exact location of the tunnels and all improvements, such as cuts, etc. The Hunt group of claims and also the Green group should be given this same careful and thorough examination, which will enable you to testify positively, not only as to the extent of the improvements, but also as to the exact location thereof.

In the Matanuska field a thorough examination should be made of the Watson group, as I anticipate evidence in this group will be very difficult to secure, and from the information which has been gathered it is believed an examination will practically enable us to make a prima facie case upon the result of such examination.

In calling your attention to these specific groups it is not my intention to convey to you that examination of the others is not necessary, but only to impress upon you the groups in which it is anticipated we will have the most stubborn fight.

The commissioner has directed that the Cunningham hearings be set commencing October 15, which was in accordance with my representations to him that you would be able to return from the field and prepare your maps by that date; so I trust you will make every effort to reach here by October 1. In fact, it is imperative that you do reach here not later than said date, even though it is necessary to neglect some of the less important cases. The time within which to complete the investigation of the Alaska coal cases has been extended to November 1, being the date on which I promised that final reports on all these cases would be submitted.

You will also recollect the necessity of interviewing and securing affidavits of all the coal claimants residing in the vicinity of Katalla, Seward, and other points in southwestern Alaska. This phase of the investigation should not be overlooked. Affidavits, also, in support of the showing made by you upon the ground, will be very important. Your attention is also called to the fact that Clarence Cunningham stated in a circular letter that his expert, H. L. Hawkins, had found about four claims to be of little value for coal, but that, in view of the value of the extensive timber thereon, the claims would be carried just the same. In your examination of the Cunningham case you must state such claims definitely in order to testify as to the claims being chiefly valuable for their timber.

Respectfully,

L. R. GLAVIS,
Chief of Field Division.

The CHAIRMAN. That is admitted, too?

Mr. VERTREES. Mr. Kennedy, he speaks there of going to the orchard; is that what some call the ranch?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Who owns it?

Mr. KENNEDY. Why, he owns a ranch there himself.

Mr. VERTREES. Do you have any interest in it?

Mr. KENNEDY. Not in that ranch.

Mr. VERTREES. Do you and he have one together?

Mr. KENNEDY. In this way, that Mr. Glavis, about July last or thereabouts told me of a piece of land in that vicinity which he thought would be a good buy, and I went up, I think on the 3d or 4th of July, and made a deal for the ranch, and he thought so much of it at that time that he said: "I would like to come in on that with you," but he was not financially prepared to. "Well," I said, "as you put me in touch with it, if at some future time you desire to pay me half of the price paid for the orchard, I will sell you half of it;" and he has not complied with that up to this time.

Mr. GRAHAM. Is there anything more than your verbal offer?

Mr. KENNEDY. No, sir; there is no writing at all.

Senator PURCELL. This was land that was bought out and out?

Mr. KENNEDY. Yes, sir.

Senator PURCELL. Title had passed from the Government?

Mr. KENNEDY. Yes, sir.

Mr. JAMES. What did it cost you?

Mr. KENNEDY. Eight thousand dollars.

Mr. VERTREES. And what is it worth now?

Mr. KENNEDY. I had an offer of \$15,000 for it.

Mr. VERTREES. You mean by that that you think it is worth more or you would have taken that?

Mr. KENNEDY. Yes, sir.

Mr. OLMSTED. You did not purchase it from the Government?

Mr. KENNEDY. No, sir; the title had passed; the abstract shows that the title had passed from the Government, I think, about two years.

Now, with regard to this correction I want to make. There have been some things in connection with Mr. Glavis and myself which have not been brought out, and the correction in particular is that the night I got back from Alaska I saw him in those two or three hours, met him at the Hotel Lincoln, and we went up to his room and talked, and I went to bed with him and slept with him that night. The next morning I went down to the depot and saw him go through the gate to take the train. I did not see him get on the train, but he went through the gate to take the train. I said I had not seen him the next morning, I believe, yesterday, but I recall distinctly that I went to the depot.

Mr. BRANDEIS. Mr. Kennedy, do you not recall also that he left you in possession of his room at the hotel?

Mr. KENNEDY. I took the room that he left at the hotel.

Mr. BRANDEIS. And did not he leave all his things in that room when he left there?

Mr. KENNEDY. Yes.

Mr. BRANDEIS. What were the things that he left in the room?

Mr. KENNEDY. Principally wearing apparel, and there were in the bureau drawers, he told me, a lot of personal letters; they were there, and they remained there—and I never looked at them; do not know what they were—for about two weeks, until my wife, who was in the East came back, and I took a room which we had previously occupied there, and I put his things in the trunk and sent them down to the storage room. I think it was about six weeks afterward he wrote a letter and asked me to send those trunks to Portland if I had an oppor-

unity, and Mr. Benedict was going to Portland and I sent the trunks; he took the trunks down.

Mr. BRANDEIS. Now, is it not a fact, Mr. Kennedy, that when Mr. Glavis left he left that room just as he was living in it; that is, with trunks actually open, or with keys in them?

Mr. KENNEDY. The things were scattered around the room.

Mr. BRANDEIS. He left you in possession of his room, is what it was, practically?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And you retained possession of that room for two or three weeks, until your wife came from the East?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And then you gave it up and packed up the things, and stored them or sent them somewhere, until they should be called for?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Now, Mr. Kennedy, I call your attention to the statement of the chairman, Senator Nelson, contained on page 1041 [reading]:

Mr. Kennedy, if you had complied with Glavis's request to agree with the representative of the Forestry Bureau, you would have had to report that there was no coal, would you not?

Now, where is that request which Senator Nelson spoke about?

Mr. KENNEDY. I do not think I ever got any request to agree with—

Mr. BRANDEIS. Where is there in your testimony any statement to that effect?

Mr. KENNEDY. To agree on any findings? The meaning of the agreement was to work in harmony with him.

Mr. BRANDEIS. What agreement do you refer to?

Mr. KENNEDY. That letter that I read here.

Mr. BRANDEIS. Those two letters?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. I wish you would go over those letters and see what there is in those letters that comes within the category that Senator Nelson spoke of as an agreement that would prevent your finding that there was coal in these lands.

Mr. KENNEDY. Well, I do not see anything in this letter where he asked me to agree. He asked me to try to agree with him.

Mr. BRANDEIS. Try to agree on what?

Mr. KENNEDY. In the examination.

Mr. BRANDEIS. Now, let us hear what the passage is that you speak of as "trying to agree."

The CHAIRMAN. What page is that?

Mr. BRANDEIS. 1041, Senator.

Mr. KENNEDY. What I refer to is: "Mr. Wingate is rather an elderly man, and I know you will show him every consideration possible. I am personally anxious that you both work together in perfect harmony."

Mr. McCALL. Probably Senator Nelson referred to what the witness said on page 1038, where in answer to a question by Mr. Vertrees it is reported in the record he said he was "very anxious that we should cooperate and agree;" that would seem to be the basis of Senator Nelson's question.

Mr. BRANDEIS. He might be anxious to have them agree, but it might be that Mr. Wingate should agree with Mr. Kennedy.

Now, Mr. Kennedy, the passage which you read was [reading]:

Mr. Wingate is rather an elderly man, and I know you will show him every consideration possible. I am personally anxious that you both work together in perfect harmony, and while it is understood by the Forest Service and myself that you have entire charge of these investigations, I am personally anxious that your relationship with Mr. Wingate should be of the most pleasant kind.

What is there in there to the effect that you should agree upon your report?

Mr. KENNEDY. Why, in answer to that question I intended to convey that Mr. Glavis wanted us to work in harmony and to simply get our own findings, but not to make any specific findings.

Mr. BRANDEIS. Isn't that language perfectly clear here?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Do you want to vary in any respect, by your statement, what that language shows on its face?

Mr. KENNEDY. No, sir; I was governed by that.

Mr. BRANDEIS. Now, look at that other letter of July 28, which you introduced in evidence, which refers to your instructions. Is there anything in that letter that indicates that you and Mr. Wingate should agree upon a report, or that you were to yield your judgment to Mr. Wingate?

Mr. KENNEDY. I never have thought that either party was to agree with the other, unless their findings warranted it.

Mr. BRANDEIS. I will ask you whether at any time Mr. Glavis attempted to influence you as to what your findings should be?

Mr. KENNEDY. No, sir; I do not think he ever did.

Mr. BRANDEIS. One of these letters refers to the instructions which had been sent to Mr. Wingate. Which of the letters is that, Mr. Kennedy?

Mr. KENNEDY. The letter of July 31.

Mr. BRANDEIS. What instructions were those?

Mr. KENNEDY. I suggested, as you will see in Mr. Wingate's letter, that he locate himself at various points in order to testify to the ground which he is examining from his personal knowledge. "This will be a very good thing for you to do."

Mr. BRANDEIS. Now, did you see that letter or a copy of that letter to Mr. Wingate?

Mr. KENNEDY. Mr. Wingate showed me the letter when I met him.

Mr. BRANDEIS. Was that a letter signed by Mr. Glavis as chief of field division and approved by Mr. E. T. Allan as district forester?

Mr. KENNEDY. I am not positive of that.

Mr. BRANDEIS. Will you look at page 632 of the testimony and look at the copy of the letter of July 31, 1909, which is to be found there?

The CHAIRMAN. What page is that that you referred to, Mr. Brandeis, 632?

Mr. BRANDEIS. 632; yes, sir; of the testimony.

Mr. KENNEDY. I rather think that it was a letter of introduction to me that he gave me.

Mr. BRANDEIS. That is a letter handed Mr. Wingate introducing him to you?

Mr. KENNEDY. I think so.

Mr. BRANDEIS. Have you any such letter?

Mr. KENNEDY. No, sir; that was his letter. I did not keep the letter.

Mr. BRANDEIS. Did you make search before coming up here to-day for all the letters you had bearing on this matter; I mean among the papers here?

Mr. KENNEDY. Yes, sir; I think those were all the letters I had.

Mr. BRANDEIS. And you have produced everything that you have in your possession that bears upon this?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Now you have stated to-day that Mr. Glavis left you in charge of his things—of his room at the hotel. Was there anything said to you by Mr. Glavis, or any instructions given by Mr. Glavis to you, in regard to receipts for papers?

Mr. KENNEDY. Yes, sir; he asked me to get the receipt for the Government papers and mail it to Mr. Christensen—mail it to him—and I think it was the morning I went to the office I told Mr. Christensen that Mr. Glavis asked me to get the receipt for the papers and mail to him, and Mr. Christensen gave it to me and I mailed it to him.

Mr. BRANDEIS. What day was it that you made this request of Mr. Christensen?

Mr. KENNEDY. About the 23d or 24th—I think it was the 23d of September last.

Mr. BRANDEIS. Then it was on the very day that Mr. Glavis left Seattle?

Mr. KENNEDY. I think it was. It was within one or two days.

Mr. BRANDEIS. This going down to the station with Mr. Glavis when you saw him off, was it before or after you went to the office?

Mr. KENNEDY. That was before I went to the office.

Mr. BRANDEIS. Then the message that Mr. Glavis left for you about that receipt was delivered after he had left the city, assuming that he took the train that you saw him going on?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. What did you do about that receipt?

Mr. KENNEDY. I got the receipt and mailed it to him.

Mr. BRANDEIS. Did you get any acknowledgment of the letter from Mr. Glavis?

Mr. KENNEDY. Some time later he wrote me a letter and said that there were some papers that were not listed on that receipt, and for me to ask Mr. Spaulding what became of them.

Mr. BRANDEIS. Who is Mr. Spaulding?

Mr. KENNEDY. The disbursing agent of the office at that time.

Mr. BRANDEIS. And a stenographer?

Mr. KENNEDY. He is a stenographer, I believe. His position is disbursing agent.

Mr. BRANDEIS. What did you do?

Mr. KENNEDY. I asked Mr. Spaulding—told him that I had seen a letter from Mr. Glavis, and he said there were some papers missing, and for him to look in his notebook. He said, "I have given the notebook to Mr. Christensen."

Mr. BRANDEIS. Did you get any further receipt?

Mr. KENNEDY. No, sir; that was all there was to it.

Mr. BRANDEIS. Did you report that to Mr. Glavis?

Mr. KENNEDY. I rather think I did write him about it.

Mr. BRANDEIS. You saw Mr. Glavis some time after that, did you not?

Mr. KENNEDY. It was about four or five weeks after he left that I saw him.

Mr. BRANDEIS. That is some time toward the end of October or the beginning of November?

Mr. KENNEDY. I think it was about four or five weeks from the 23d of September.

Mr. BRANDEIS. Now, you stated that you recall certain things since you testified yesterday. Is there anything that occurs to you now bearing on this matter that you have recalled since you testified yesterday?

Mr. KENNEDY. Yes, sir; there is one thing I would like to state. Mr. Glavis requested me when he was leaving not to tell anyone where he was going as he did not want to be bothered by the newspaper people, and I think then about the 24th or the 25th Mr. Schwartz came into the office and in talking with him I think I told him that Mr. Glavis went down to the orchard, and a day or so after I thought the matter over, as both Mr. Ballinger and Mr. Glavis were friends of mine and I wanted to be clear in the matter, that I would not take any part in shielding or working for either, but simply attend to my own business, and I asked Mr. Sheridan if he knew where Mr. Schwartz was to telegraph him I had information that he went to Chicago.

Senator SUTHERLAND. I did not hear the last part of your answer.

Mr. KENNEDY. I had information that Mr. Glavis had gone to Chicago.

Mr. BRANDEIS. Mr. Sheridan—that is the James M. Sheridan who was appointed counsel in charge of the Cunningham cases?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. And he was in Seattle at the time?

Mr. KENNEDY. Yes, sir; as I had the Alaska coal cases, he was practically my superior in the matter.

Mr. OLMSTED. Whom did you say had gone to Chicago?

Mr. KENNEDY. Mr. Glavis.

Mr. OLMSTED. As a matter of fact he had gone where?

Mr. KENNEDY. I told Mr. Schwartz that he had gone to the orchard, and I was very friendly with Mr. Ballinger and Mr. Glavis also; I thought that I would not shield either party or take any part against either, and I made known to Mr. Schwartz that I had information that he went to Chicago.

The CHAIRMAN. Did Mr. Glavis ask you to say that he had gone to the orchard instead of Chicago?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. That is how you came to state it?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. As a matter of fact he did not go to the orchard, but went to Chicago?

Mr. KENNEDY. Yes, sir.

Mr. JAMES. Why did he want you to say that?

Mr. KENNEDY. He said he did not want the newspaper men to know where he was, so that he would not be bothered by them.

Mr. BRANDEIS. Do you recall anything else bearing on this matter since you testified yesterday?

Mr. KENNEDY. No, sir; I do not recall anything further.

The CHAIRMAN. May I ask counsel on both sides a question? Have you any further use for Mr. Barr, either of you?

Mr. VERTREES. I have not.

Mr. BRANDEIS. Mr. Vertrees asked Mr. Barr to produce a certain paper. Mr. Barr said that he had already telegraphed for that paper.

The CHAIRMAN. Could not counsel agree among themselves that we might send that paper by mail?

Mr. BRANDEIS. I do not know anything about the paper.

The CHAIRMAN. Do you want him retained, either of you?

Mr. BRANDEIS. I think I would rather defer definitely stating until I shall determine whether I do or not.

Mr. VERTREES. As I understand you, your last statement is this, that when Mr. Schwartz came out a few days after and made inquiry as to the whereabouts of Mr. Glavis, you told him Mr. Glavis had gone to the orchard?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And you did that because Mr. Glavis requested you to make that statement?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And later, reflecting over the matter and your relation to all the parties, you thought it better to correct that statement and you sent word to Mr. Schwartz that he had really gone to Chicago and not gone to the orchard?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Now please read to the committee the portions of that letter of July 31 which you underscored.

Mr. KENNEDY. "Do not leave anything undone, as I am unable to impress upon you the importance of having your trip a most successful one."

Mr. VERTREES. Is there any other portion underscored?

Mr. KENNEDY. No, sir.

Mr. VERTREES. Now I wish to call your attention to a few questions that were asked you on yesterday. They appear on page 1038 of the record. The question is, "In Alaska"—that means you had gotten to Alaska—"asking you to cooperate with Mr. Wingate, and really to agree with him if you could." And you answered: "He said he was very anxious that we should cooperate and agree." Now a little later on: "To what extent did it press you to agree with him if possible?" And you answered: "Well, Mr. Glavis underlined some points in it asking me to make an effort to agree with Mr. Wingate and to work in harmony with him."

"Mr. VERTREES. Did you reply to that letter?"

"Mr. KENNEDY. Why, I do not know whether I replied directly to it, but I did write quite a lengthy letter after we had met and made the examination."

Can you produce that letter?

Mr. KENNEDY. I did not keep a copy of that letter.

Mr. VERTREES. Look at this and see if this is a copy of the original.

Mr. KENNEDY. I wrote it out in the field and had no means of making a copy.

Mr. VERTREES (handing witness a paper). Look at this and see if this is the original, and then see if that is a correct copy.

Mr. KENNEDY. This is the original.

Mr. VERTREES. Look over the original as I read the copy and see if it is correct.

Senator SUTHERLAND. To whom is that letter addressed?

Mr. VERTREES. To Mr. Glavis.

The CHAIRMAN. By Mr. Kennedy?

Mr. VERTREES. Yes.

The CHAIRMAN. Do you offer that in evidence?

Mr. VERTREES. Yes.

The CHAIRMAN. Without objection, it is admitted.

(The letter is as follows:)

CUNNINGHAM COAL CAMP,
Alaska, August 20, 1909.

Mr. L. R. GLAVIS,
Chief of Field Division, Seattle, Wash.

SIR: Your telegram of the 6th reached me through Stoner on the 12th, stating Mr. Wingate would come up and go over the coal field with me. I kept on working and on the 15th learned through Stoner that he, with three other Forest Service men had gone to Cunningham Camp. I immediately went over there and met them. I was fully impressed with the portion of your letter which you underlined, especially requesting that we both work in harmony and together, and fully intended to do so for you personally, and at this time would very much desire to refrain from making any complaint and especially do not desire to be the one to first make it. Am doing so solely on the ground that he will likely see you before I do, and you may take action on his report, and if it should be reverse of mine you may say I should have informed you. I will give you an outline and leave the rest to your good judgment in such matters.

I had finished my investigation of the Cunningham group before they arrived, and they had went over part of it before I saw them. I spent three days with him. He said he had seen all he desired of the property and that his agreement was to examine the Cunningham group only. I found him to be a Scotchman, very determined in his views (and unfamiliar with the conditions of such a country); that all the coal here is slips and irregular, nothing in place. The first thing he asked me was what I thought of the field. I said little. He then said there is no coal here, and I did not argue, but expected to show him some croppings, and he sprung on me very sharp; he was more frank in expressing himself than I was—I admit he was. As I saw it would lead to an argument I did not discuss it. Next he asked me if I was on a certain part. I said no, but believed there was coal there. He said out loud and with capital letters, "Show me." I said, "Come on." We went. I found several more small crops and took note of them; he would not come to see them. Then about the fourth one we come to, he went up to it and said, before Mr. Langille, he would not note such. I said all right, I would. In going along we saw many; they were not large enough to suit him. He asked the guide if that was the best he had to show him; if so, he did not want to see them. I lost my patience then and said, "I was going to see them; he could do as he desired. Then he said, "If you can go I can." I said that was not the issue. So we went to one of the tunnels next day. He said he saw all he desired.

I will proceed to finish the other work in this field. For your benefit I am going to report almost all of the field coal bearing, but ask you not to tell him this part. Govern yourself as you think best when you get his report. He did not say what he will report. I regret it was not more harmonious, and you can ask the opinion of W. A. Langille, forest supervisor, and Stoner. If they decide I was unreasonable, I am then not competent to do such work and will resign. I will not have time to go to the Matanuska field and return before October 1, so have wired you to send another to that field if you desire it done this winter. I am now working on Stracy group. They apparently have laid out their work with the view of jointly working it, but I have not completed the examination yet and may possibly change my views. I should be through with the field examination here about September 5, then deemed advisable to try to get an affidavit from Hawkins to show he planned to open the Cunningham property jointly by locating a proposed tunnel, and that Mr. C. ordered his men to start the tunnel on his report. He is supposed to be out from Cordova on the railroad. Also desire to get an affidavit from Mr. Shields, agent for Stracy, or English company. I feel Stoner could not get the points in on these two. If they will not at all I can get some points. He is at Cordova. I am going to make an effort to inter-

view them. Stoner will now proceed to see all others in the cases and stop at Juneau, at surveyor-general's office, and make a tracing of all the coal claimants' lands, showing all creeks and likely all improvements. It will check our work and enable us to make a true map of all the claims. If I can make boat connections, don't have to wait a week to get away from here, and you don't order me to Matanuska district, I should get in from September 15 to 20, and I hope I do.

Nature has done wonders here in prospecting the veins—so many high hills and canyons. Get the land cleared if you can.

With many regrets on your personal account I write a part of this letter stating our investigating was not fully in harmony.

Respectfully,

ANDREW KENNEDY.

The CHAIRMAN. Was this Mr. Wingate the man who through the efforts of Mr. Glavis, of the Forestry Service, had been furnished to help you?

Mr. KENNEDY. Yes, sir; they sent him after I had gotten up to the field.

Mr. VERTREES. Did you not remember, on yesterday when you stated you did not remember whether Mr. Glavis had left town with him, that you went to the depot with him?

Mr. KENNEDY. No, sir; not until he called my attention to it.

Mr. VERTREES. You had forgotten that.

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. You were asked to get the receipt. You did get it?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Mr. Christiansen gave it to you?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And you sent it to Mr. Glavis?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And when you went back some time later to inquire about the notebook Spaulding told you he had turned it over to Mr. Christiansen?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Did you make further inquiry about it?

Mr. KENNEDY. No, sir; he asked me to ask Mr. Spaulding if he knew what had become of the paper.

Mr. VERTREES. When Mr. Spaulding told you it had been turned over to Mr. Christiansen, you said nothing to Christiansen about it?

Mr. KENNEDY. No, sir.

Mr. VERTREES. He did not refuse you in any way?

Mr. KENNEDY. No, sir.

Mr. OLMSTED. What do you mean in that letter, if I remember the expression, "on your account, I am going to report"—

Mr. BRANDEIS. For your benefit.

Mr. OLMSTED. For your benefit. What did you mean by that?

Mr. KENNEDY. That was to inform him that my impression was that Mr. Wingate would return before I did and give him the impression that it was not coal bearing, and mine might be the same. I wanted him to understand that mine was going to be different, as I thought it would injure the Government's interests to have this dispute there.

Mr. OLMSTED. In what way would it be for his benefit to report it one way or the other?

Mr. KENNEDY. If he had any doubt as to the ability of either one he would send another man.

Mr. DENBY. You meant it for his information?

Mr. KENNEDY. Yes, sir.

Mr. OLMSTED. What did you mean in the letter when you said, "Get the land clear if you can?"

Mr. KENNEDY. That is a personal matter.

Mr. OLMSTED. State it.

Mr. KENNEDY. I had bought a piece of land down there and left money for him to try to get it cleared for me during my absence in Alaska.

The CHAIRMAN. Where was that land?

Mr. KENNEDY. In Klickitat County, Wash.

The CHAIRMAN. Was that coal or timber land?

Mr. KENNEDY. It was brush and timber land.

The CHAIRMAN. No; coal.

Mr. KENNEDY. No, sir; and I never made any examinations of any land in the Territory while with the Government.

Senator PURCELL. Was that deeded land or in the Government?

Mr. KENNEDY. Deeded land.

Senator PURCELL. Title had passed from the Government?

Mr. KENNEDY. Yes, sir; the title had passed. I can show you the abstract.

Senator PURCELL. Owned by private people?

Mr. KENNEDY. Yes, sir.

Mr. OLMSTED. What do you mean by cleared? Get the timber off or get the title cleared?

Mr. KENNEDY. Get the timber off, so I could plant trees on it.

Mr. OLMSTED. Why did you ask Mr. Glavis to get it cleared?

Mr. KENNEDY. I left the money with him to pay for it. I planned with him how many acres I wanted cleared and left the money with him to pay for it while in Alaska. I wanted to get the trees out that fall instead of putting it back another year.

Senator SUTHERLAND. That was purely a personal matter?

Mr. KENNEDY. Yes, sir; purely a personal matter.

Mr. BRANDEIS. In this letter that Mr. Vertrees just handed you, your letter of August 20, 1909, you spoke of getting or trying to get an affidavit of Mr. Hawkins. Will you turn to that passage? I have not got it here. Just read the passage, will you?

Mr. KENNEDY (reading):

I should be through with the field examination here about September 5. Then deemed it advisable to try to get an affidavit from Hawkins to show he planned to open the Cunningham property jointly by locating a proposed tunnel that Mr. C. ordered his men to start.

Mr. BRANDEIS. Had you been instructed to get affidavits besides making a field examination?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Did you attempt to get the affidavit of Mr. Hawkins in relation to the Cunningham property?

Mr. KENNEDY. I did not meet anyone who knew anything about that.

Mr. BRANDEIS. I say Mr. Hawkins; did you try to get an affidavit of Mr. Hawkins?

Mr. KENNEDY. I did.

Mr. BRANDEIS. Did you succeed?

Mr. KENNEDY. He told me he would rather not, as he had made this report privately and would have to divulge some of the questions at issue. I did not press him any further on that account.

Mr. BRANDEIS. Mr. Hawkins was the engineer of the Cunningham group, was he?

Mr. KENNEDY. He had made a report on the Cunningham group.

Mr. BRANDEIS. Mr. Stoner was there as your assistant—Special Agent Stoner?

Mr. KENNEDY. Yes, sir.

Mr. BRANDEIS. Did Mr. Stoner take affidavits up in Alaska—Special Agent Stoner?

Mr. KENNEDY. I rather think he did. He told me he did, and I advised him to do so.

Mr. BRANDEIS. That is all.

Mr. DENBY. You went over the Cunningham property itself, did you?

Mr. KENNEDY. Yes, sir.

Mr. DENBY. You found outcroppings of coal. Did you find any of very great value?

Mr. KENNEDY. I considered them of great value.

Mr. DENBY. I presume your report shows all that fully, does it not?

Mr. KENNEDY. It shows the size and thickness of the veins; not my report, but the testimony.

Mr. DENBY. Mr. Wingate, of the Forestry Service, went up there and went over the whole property?

Mr. KENNEDY. Yes, sir.

Mr. DENBY. And he reported, I believe, that there was no coal value in it?

Mr. KENNEDY. Practically so.

Mr. DENBY. Then there was a suggestion of some one else going over the property?

Mr. KENNEDY. That is on account of this letter.

Mr. DENBY. To reconcile these two conflicting reports?

Mr. KENNEDY. Yes.

Mr. DENBY. Was there anybody else sent?

Mr. KENNEDY. Mr. Fisher, of the Geological Survey, Washington.

Mr. DENBY. Is his report in here?

Mr. KENNEDY. Yes, sir. It was attached there yesterday.

Mr. DENBY. Yes; that was one of the reports put in yesterday.

Mr. BRANDEIS. By inadvertence it was not printed as part of yesterday's proceedings. I understand it will be put in later.

Mr. DENBY. What is the substance of that report?

Mr. KENNEDY. He corroborated my findings.

Mr. DENBY. Did you find high values in coal?

Mr. KENNEDY. I considered them of great value.

Mr. DENBY. Did you estimate the value or attempt to estimate it?

Mr. KENNEDY. My work was naturally—that is, I had attempted to do that, but I had to devote the most of my time to ascertain the amount of work done, and as to the quantity, I did make an estimate for my own benefit.

Mr. DENBY. What was that estimate?

Mr. KENNEDY. I put the total estimate at ninety millions on the Cunningham group.

Mr. DENBY. On the 33 claims of the Cunningham group?

Mr. KENNEDY. Yes, sir.

Senator ROOT. Ninety million what?

Mr. KENNEDY. Ninety million tons.

The CHAIRMAN. Nine million or ninety million?

Mr. KENNEDY. Ninety million.

Mr. GRAHAM. Was that the total amount of coal, or was that the amount you estimated you could get out?

Mr. KENNEDY. I estimated that was the amount of coal.

Mr. GRAHAM. And according to your idea what proportion of that could be obtained for use in reasonably good mining?

Mr. KENNEDY. It has been demonstrated, and I think can be done. that 10 per cent is all that should be allowed to be wasted in mining.

Senator ROOT. What is the ordinary amount that is wasted?

Mr. KENNEDY. It is getting down to about that figure; 10 per cent.

The CHAIRMAN. Would not the waste be more in Alaska on account of the peculiar conditions there?

Mr. KENNEDY. If they mined properly I do not think the waste should be any more. They have similar conditions in mining in Washington and Pennsylvania.

Senator FLETCHER. Did you estimate the net value then?

Mr. KENNEDY. That is a question that really should not be gone into, in my opinion, offhand, because in my opinion it is a very valuable field, and good laws should be enacted in the mining of that coal. and in general for the coal fields in Alaska. It is very gassy and there is going to be danger of fire destroying a lot of it.

Mr. GRAHAM. What grade is it, bituminous or anthracite?

Mr. KENNEDY. There are three distinct kinds. I have seen some coal from the Matanuska field where samples were brought to me said to be a pure lignite. But from my own personal knowledge the coal in the Katalla district is a high-grade bituminous, and a few veins of almost anthracite, but it does not compare with Pennsylvania anthracite.

Mr. DENBY. How far from the coast is this group?

Mr. KENNEDY. This Cunningham group?

Mr. DENBY. Yes.

Mr. KENNEDY. I should think about 15 or 16 miles. Probably you could not get a harbor at that point.

Mr. DENBY. How far from an available harbor site?

Mr. KENNEDY. There is a question up there as to the harbor. They have three different views on the harbor question in Alaska. I think one can be obtained at a point within about 20 miles. Then they made an effort about 4 miles farther to get a harbor at Katalla. and they abandoned that and went to Cordova, which is about 90 miles.

Mr. DENBY. Is there a river or any water transportation down to the coast from the mines?

Mr. KENNEDY. Part of the field could be shipped by water in a crude way at the present time.

Mr. DENBY. What portion of the coast is this mine located on? How far north of Juneau, for instance, or in regard to Valdez or the Pacific port?

Mr. KENNEDY. Cordova, I think, is about 300 or 400 miles. It is a night's run on the boat from Katalla to Cordova, and to Juneau. I think, is thirty-eight hours. I am not quite positive of it.

The CHAIRMAN. It is not a great way from St. Elias, is it?

Mr. KENNEDY. Those fields are not a great way from it.

Senator SUTHERLAND. You spoke of a 10 per cent waste. What do you include in it?

Mr. KENNEDY. The pure coal.

Senator SUTHERLAND. How does the waste occur?

Mr. KENNEDY. It is a loss; sometimes a cave comes and you have a lot of pillars there and it presses them, and where there is heavy pressure it crushes those.

Senator SUTHERLAND. Do you include in the term "waste" the supporting pillars that must of necessity be left in the ground?

Mr. KENNEDY. They do not leave very many pillars now.

Senator SUTHERLAND. Do they furnish any other supports?

Mr. KENNEDY. They mine up to pitch narrow and take what they call a pillar back with them.

Senator SUTHERLAND. And let the roof cave in?

Mr. KENNEDY. Yes, sir.

Mr. DENBY. What is the thickness of these veins?

Mr. KENNEDY. My findings run from 1 foot up to 47, but the 47-foot veins I traced at another point. Of course that was a slide and I was fully convinced it would be about 26 feet wide.

Mr. DENBY. That was an outcropping 26 feet wide?

Mr. KENNEDY. Yes, sir; 26 feet wide.

Senator ROOT. When you speak of 90,000,000 tons, what do you include, the Cunningham group alone?

Mr. KENNEDY. Yes, sir.

Mr. JAMES. What is the average width of veins of the anthracite region down there?

Mr. KENNEDY. They are mining from 2½ feet practically to 2 feet. There has been a portion there of one vein of 60 feet, but the average is about 6 or 7 feet.

Mr. OLMSTED. Where is that?

Mr. KENNEDY. Pottsville region.

Mr. OLMSTED. In Pennsylvania?

Mr. KENNEDY. Yes, sir. Did you ask me about the average in Alaska?

Mr. JAMES. I asked you what was the average in Pennsylvania and you said 6 or 7 feet.

Mr. KENNEDY. Yes, sir.

Mr. JAMES. Now, I want to ask what is the average in the Cunningham group according to your findings?

Mr. KENNEDY. They vary from 2 to 25 or 26 feet. There is another vein there I really believe, although I found about 18 which I thought I had gotten proof of; I really believe there are 26.

Mr. JAMES. But what is the average? What would you say would be the average width?

Mr. KENNEDY. Take the whole thing and they would average about 7 or 8 feet.

Mr. DENBY. Does this coal approximate the Pocahontas coal in quality?

Mr. KENNEDY. No, sir; it is a different quality.

Mr. DENBY. It is not an anthracite?

Mr. KENNEDY. It is not equal to what they call the Carbon Mountain. On the Cunningham group there is no anthracite at all, or any resemblance to it. On the higher mountains they have harder coal, which resembles the anthracite.

Mr. DENBY. Is it anything like the Pocahontas, or anything like that quality of coal?

Mr. KENNEDY. It is something similar.

Mr. DENBY. Would you regard it as better than that?

Mr. KENNEDY. I regard it as good coal.

Mr. DENBY. As good as the Pocahontas?

Mr. KENNEDY. Yes, sir; fully as good as some of it.

Mr. MADISON. Are you acquainted with the coal in the Canyon City district, Colorado?

Mr. KENNEDY. I have seen the coal; yes, sir.

Mr. MADISON. Do you know what kind of coal it is?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. How does the Alaska coal compare with that?

Mr. KENNEDY. I think the Alaska coal, although it will be fine, will have to be used for steam purposes. You would be unable to mine it in a lump form. I think it is brittle and will break very easily.

Senator ROOT. The Alaska coal you are talking about?

Mr. KENNEDY. Yes, sir. As to quality for steaming, I believe the Alaska coal is as good as I have seen in any of those mountains.

Senator ROOT. What tests have you made of it?

Mr. KENNEDY. I only know the geological test. I did not make any personally.

Mr. OLMSTED. Did you analyze any of the coal to show what per cent of it is carbon?

Mr. KENNEDY. I think 85 per cent is shown by the geological analysis.

Senator ROOT. Can you give any judgment as to the extensiveness and expensiveness of the development necessary for the mining of the coal in this Cunningham field, this Katalla field?

Mr. KENNEDY. Twenty-five or 26 miles of railroad will have to be built before it can be mined.

Senator ROOT. That is to Cordova?

Mr. KENNEDY. That will be about 90 miles to Cordova, and they claim they are going to get a harbor within 26 miles.

Senator ROOT. You say a good harbor. Do you mean find one or make one?

Mr. KENNEDY. They claim that they can make one.

Senator ROOT. By building a breakwater?

Mr. KENNEDY. There is an island there that they claim will act as a breakwater and enable them to put bunkers there to load boats, and they claim they will get in there and they will be able to get to that harbor every day. But I am not a harbor engineer, but I observed as many of these matters as I could and it did not look as though they could. The information which I could obtain was that it freezes up in the winter, and there was floating ice from the glaciers that comes down there.

Senator ROOT. What sort of country is there between there and the Katalla field?

Mr. KENNEDY. There is a river that runs up there. It is practically level. It would be a very easy road to build.

Mr. DENBY. Is the climate substantially like that of Juneau?

Mr. KENNEDY. It is pretty much the same. It rains twenty-six days out of every month in the summer.

Mr. DENBY. Is it as warm as at Juneau?

Mr. KENNEDY. Yes, sir; the sun gets very warm there.

Mr. DENBY. Is it near enough to be affected by the same conditions that relate to Juneau?

Mr. KENNEDY. I would think so. I would think they were about the same conditions.

Mr. DENBY. Do they work it all the year round?

Mr. KENNEDY. If they could keep their railroad open from snow, which I have no doubt they could, I think they could work that every day they wanted to.

Mr. DENBY. And keep an ice-free port?

Mr. KENNEDY. They can at Cordova all right. That is an every-day harbor, I understand.

Mr. DENBY. That is a 90-mile distant harbor?

Mr. KENNEDY. Yes, sir. Also Katalla would be an every-day harbor if they could maintain it.

Senator ROOT. If there was a harbor.

Mr. KENNEDY. If there was a harbor built.

The CHAIRMAN. Controller Bay is immediately south of the coast, is it, from the Katalla field?

Mr. KENNEDY. Yes, sir; that is called "Controller Bay."

The CHAIRMAN. And did not the Guggenheims undertake to make a harbor there and spend a lot of money on it two years ago?

Mr. KENNEDY. I saw some of the work that they did there.

The CHAIRMAN. And gave it up?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. The railroad they built they started from Cordova Bay up to Copper River Valley on the main line?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. Now to reach the coal field from Cordova they would have to build almost at right angles, or not quite that, toward Katalla from that line, would they not?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. That would be about 90 miles.

Mr. KENNEDY. From Cordova, this branch?

The CHAIRMAN. The branch line from the main line.

Mr. KENNEDY. I understand it would. I thought they would start from the main line and it would be 90 miles from the field to Cordova.

The CHAIRMAN. So that is practically the only open harbor that is accessible to the coal fields?

Mr. KENNEDY. It seems to be that if they could have built one at Katalla—if the harbor could be built there—it would be the ideal point to ship this coal from.

The CHAIRMAN. But they attempted to build one there and gave it up.

Mr. KENNEDY. Yes, sir; I do not see why they should build more roads if they could build one there.

The CHAIRMAN. The report is, and I guess you have heard it, that they spent about a million dollars there in creating a harbor, and then gave it up.

Mr. KENNEDY. Yes, sir; and if they could maintain it there it would save them hauling this coal about 60 miles by rail.

The CHAIRMAN. In failing to get a harbor there they would have to haul it about 90 miles?

Mr. KENNEDY. Yes, sir.

Mr. DENBY. It would be easy-mining coal, would it?

Mr. JONES. Yes, sir.

Mr. DENBY. You would not have to do much tunneling?

Mr. KENNEDY. They can drive tunnels which would crosscut it—one tunnel which would practically crosscut a large portion of the veins. I would consider it very easy mining. The one difficulty they would have would be to maintain the roof, as the lip runs so high and long.

Mr. GRAHAM. How would it compare in tonnage cost with Pennsylvania coal?

Mr. KENNEDY. Well, I think the tonnage cost there—the labor cost will be much higher for a long time, and I think the cost in general will be about as high as Washington—as the coals on the coast. The cost of mining will be equally as high.

Mr. DENBY. Mr. Kennedy, in estimating the values of this coal tonnage, do you estimate upon the basis of that quantity of coal laid down on the American market, or do you estimate upon the basis of that quantity of coal in Alaska, and requiring a great expense to get it out?

Mr. KENNEDY. I don't believe I clearly get your question.

Mr. DENBY. Why, the coal laid down in America will, of course, bring a certain price.

Mr. KENNEDY. Yes, sir.

Mr. DENBY. But to get the coal down to America will cost a certain amount; what I am getting at is what is the basis of your estimate. You find so much coal, so much tonnage; upon what do you base the value of this coal?

Mr. KENNEDY. My answer to him was based on the mining delivery at the mine.

Mr. DENBY. At the mine?

Mr. KENNEDY. Yes, sir.

Mr. GRAHAM. On cars at the mine?

Mr. KENNEDY. On cars at the mine.

Mr. DENBY. And that is the basis on which you make your estimate of the values in Alaska?

Mr. KENNEDY. Yes; I haven't any idea what it would cost to ship it down by boat.

Mr. MADISON. You did not give any value, did you, of the coal in Alaska?

Mr. KENNEDY. I do not think I did.

Mr. JAMES. He just gave it as 90,000,000 tons.

Mr. MADISON. Have you any idea what the value would be there delivered on the cars?

Mr. KENNEDY. The profit to the miner on the car, or the profit to the mine owner?

Mr. MADISON. Just give the value, the market value; of course, it is purely prospective, but if you have any idea about the matter, about what coal would sell for there at the mine in Alaska; do you know anything about the conditions that would contribute to or control the prices?

Mr. KENNEDY. I think the price would be in a general way controlled by the Washington market, and if they got \$2 to \$2.25 for it at the mines, I think that is all they could at the present time, except

ump coal, they could get probably \$3.50 for it, but the percentage of ump in that would be very small.

Senator ROOT. About how much would it cost to mine it?

Mr. KENNEDY. They ought to be able to mine that for about \$1.75. It will cost them a little more while they are opening, but when their mines are on a basis of 1,500 to 2,000 tons a day they should be able to mine it for \$1.75.

Senator ROOT. Twenty-five to 50 cents a ton profit then?

Mr. KENNEDY. That is about the condition of the present market.

Mr. DENBY. But, Mr. Kennedy, they could not get anything for it at the mines until they built a railroad and harbor—

Mr. KENNEDY. Yes, sir.

Mr. DENBY. They would have to supply facilities to get it out before anyone would buy it at the mines, of course.

Mr. KENNEDY. Yes, sir.

Mr. DENBY. That is what I am trying to get at. Did you take that into consideration in fixing the value of that coal, or the cost at the mine? Are you simply saying it will cost so much to bring the coal to the surface and load it on cars, or are you estimating in that the value of the improvements that must be made before the coal would bring anything?

Mr. KENNEDY. No, sir; that estimate is f. o. b. cars at the mines, without any railroad or water charges.

Mr. DENBY. Of course you have not gone into that elaborately to find out what that would be.

Mr. KENNEDY. I do not think I have.

The CHAIRMAN. Is it not a fact, Mr. Kennedy, that there is an immense snowfall there on the coast in winter?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. From 2 to 3, even up to 5 and 6 feet of snow?

Mr. KENNEDY. I have understood there is; yes, sir.

The CHAIRMAN. During most of the winter?

Mr. KENNEDY. Yes, sir.

Mr. JAMES. That would affect the mining of the coal in the Cunningham group?

The CHAIRMAN. How long does the winter last there generally, when they have this excessive snowfall?

Mr. KENNEDY. They informed me, fully eight months.

The CHAIRMAN. And during that time the snow on the ground is all the way from 2 to 6 feet, is it not?

Mr. KENNEDY. I have not been there in the winter, but that is the information I have received there.

The CHAIRMAN. I think that is correct.

Mr. JAMES. I believe you said that in your judgment it would be no trouble to keep the railroad free from snow so as to transport this coal from the mine down to harbor.

Mr. KENNEDY. It does not snow every day. They may be closed two or three days at different times, clearing the snow, but I believe they expect to keep that road open.

Mr. JAMES. You say it is level where they operate this road?

Mr. KENNEDY. It would be from Katalla—the point from Katalla to Cordova, I think, is about 30 miles; that I did not see, but it is up the river and would be approximately water grade.

Senator SUTHERLAND. Mr. Kennedy, let me ask you this question. Suppose you had an opportunity of leasing a portion of that undeveloped coal territory and had the means, of course, to operate it—

Mr. KENNEDY. You would need that.

Senator SUTHERLAND. What would you consider a fair royalty to pay for the lease?

Mr. KENNEDY. Really, if I could, I would like to ask a lot of questions about that coal property. There may be a lot of stress laid on these answers, and I do not think it is justice to the conditions up there to go at it offhand, and I would like to go over this matter. I did not expect to go into it.

Senator SUTHERLAND. You would not care to express an opinion on that question?

Mr. KENNEDY. So far as I myself am concerned, it would not make any difference, but there is a lot of controversy about that matter generally.

Senator SUTHERLAND. I am asking the question with a view, if I can, of ascertaining the value of the coal in the ground, taking into consideration the preliminary cost of opening up your mine, with the cost of mining, and all the surrounding circumstances.

Mr. KENNEDY. Well, I will answer that this way, and if you desire further, I will be glad to go into it: The coals which they are selling in some markets are being leased there in the markets which this coal will eventually go to, or a good portion of it, assuming that it will go to Seattle and San Francisco points, and they are paying for the coal in the ground, I think, from 10 to 25 cents a ton on the lease system.

Senator SUTHERLAND. Ten to 25 cents a ton?

Mr. KENNEDY. On the leasing system, but those propositions are usually close to the railroads.

Senator SUTHERLAND. Are those all mines that are already open?

Mr. KENNEDY. No, sir; some of them have never been opened.

Senator SUTHERLAND. An undeveloped field?

Mr. KENNEDY. An undeveloped field; yes, sir.

The CHAIRMAN. Then, this coal in the ground here at that rate would be worth only from 25 to 30 cents a ton.

Mr. KENNEDY. From 10 to 25 cents is what they lease for.

The CHAIRMAN. But that would be on the assumption that there are transportation facilities, would it not?

Mr. KENNEDY. It would not be worth anything without.

The CHAIRMAN. Can you conceive of anybody who would build a line of railroad from Cordova, from 80 or 90 miles to coal fields, when there was no opportunity to open and work them? Can you conceive of anybody who would build a railroad under those circumstances?

Mr. KENNEDY. It seems to me that would be the only freight they could expect to haul over it. I do not think anybody would build it without assurances of freight.

Mr. JAMES. They would not build railroads anywhere without freight to carry.

Mr. KENNEDY. I would not want to.

Mr. OLMSTED. Would you build a railroad there to take out the coal on a 160-acre tract?

Mr. KENNEDY. From the harbor up to the coal mines?

Mr. OLMSTED. Yes.

Mr. KENNEDY. No; I would not.

Mr. MADISON. Suppose you had that 47-foot vein, what about building a railroad to that if you had 160 acres of it?

Mr. KENNEDY. I do not think it would be possible.

Mr. GRAHAM. When the road was built for the 160-acre tract could it not serve equally well to carry the coal from any other 60-acre tract in the neighborhood?

Mr. KENNEDY. It would, but I thought he confined me to the 60 acres.

Mr. GRAHAM. And when that was done anybody could start and use the road for any other purpose. The road would be there, would it not?

Mr. KENNEDY. Yes, sir.

Mr. GRAHAM. There would still be a road there to carry the coal?

Mr. KENNEDY. Yes, sir.

Mr. GRAHAM. And coal there to be carried?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. How many claims did you examine there in the Catalla field?

Mr. KENNEDY. I think there was something like 200.

Mr. MADISON. How did the other groups compare with the Cunningham group in richness of product?

Mr. KENNEDY. Very favorably.

Mr. MADISON. How many square miles of area are there in that coal field that you investigated?

Mr. KENNEDY. I do not just recall that.

Mr. MADISON. Just give us your best judgment.

Mr. KENNEDY. I never had looked at it in that way. I think, though, that it would be, approximately and roughly estimating, probably 15 miles in length and 5 miles in width.

Mr. MADISON. About 5 in width?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. Now, there is almost an unlimited supply of coal in that area, is there not?

Mr. KENNEDY. There is a very great amount of coal in there.

Mr. MADISON. It is simply vast in its richness in coal. That is true, is it not?

Mr. KENNEDY. Yes, sir; I never saw a field equal to it in quantity.

Mr. MADISON. You never saw a field that exceeded it in quantity?

Mr. KENNEDY. No, sir; not in that area.

Mr. MADISON. How long have you been in the business of examining coal fields?

Mr. KENNEDY. Twenty-five years.

Mr. MADISON. Now, if a person or a corporation built a railroad to that coal field, with the easy means of mining that you refer to, they could simply haul out all the coal; they could be free and unlimited, could they not?

Mr. KENNEDY. For a number of years.

Mr. MADISON. It would be a very profitable proposition, would it not?

Mr. KENNEDY. I would like to have it.

Mr. MADISON. That is all.

Mr. GRAHAM. Do you know of a place anywhere where a railroad would be more desirable than from the coast to that mountain of coal—whether one owned the coal or not?

Mr. MADISON. That is if the field was opened and was owned by private owners or was leased so that the coal could be mined and taken out?

Mr. KENNEDY. Well, I do not recall any points where I think it would be as good as that.

Mr. MADISON. Now, you said a moment ago that the coal would be worth from \$1.75 to \$2.25 on board the cars at the mine.

Mr. KENNEDY. Yes, sir.

Mr. MADISON. Now, supposing that it cost 25 cents a ton, and I am just simply using that as an illustration because it is a convenient figure, to transport that coal to the harbor, wherever the mine is, then the coal at that harbor would be worth just 25 cents more?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. So that if a man built his own road to carry out his own coal he would charge up, as they usually do, the freight rate to the man who ultimately consumes the coal, would he not?

Mr. KENNEDY. Yes, sir.

Mr. DENBY. What about the competition of coal laid down in the same harbor by other fields? He could only charge up to the market price of the coal, could he?

Mr. KENNEDY. That is what I should think, and in this case the Alaska coal would stand a little better price than the coast.

Mr. DENBY. For a little better coal?

Mr. KENNEDY. Yes, sir.

Mr. DENBY. Do you know anything about railroad engineering?

Mr. KENNEDY. I would not say that I did.

Mr. DENBY. Have you ever given your estimate as to a road, what it would cost per mile?

Mr. KENNEDY. I could; yes, sir.

Mr. DENBY. Would it be more than \$50,000 a mile?

Mr. KENNEDY. If I could get a survey of that I could tell.

Mr. DENBY. I mean now. Would it be over \$50,000 a mile?

Mr. KENNEDY. With regard to that Cordova land, there are about 30 miles of that ground that I did not see, but I rather think that is expensive building—those 35, or approximately 35, which they have built already was a very expensive road to build.

Mr. DENBY. It would be more than \$50,000 a mile, would it?

Mr. KENNEDY. I would rather think that it would.

Mr. DENBY. You might average up the whole thing at \$50,000 a mile?

Mr. KENNEDY. You see, the 30 miles there I did not see that ground, and I could not make an estimate as to that.

Mr. JAMES. You say they tried to make a harbor at Katalla?

Mr. KENNEDY. They informed me of that, and there was indication of it. There were two different parties, I think, who tried it.

Mr. JAMES. Who tried that?

Mr. KENNEDY. There was one party known as the Breuner outfit and the Katalla company, which is the Guggenheim.

Mr. JAMES. You say the Guggenheim company, your opinion is expended about \$1,000,000 there?

Mr. KENNEDY. Yes, sir; that was the information that I received up there.

Mr. JAMES. What was the purpose of expending so much money to get a harbor there?

Mr. KENNEDY. Well, it seems to be a storm center and they endeavored to build a breakwater and had a small harbor and a storm came up and took it out.

Mr. JAMES. What I am asking you is, what did they have in sight, if anything, to cause them to expend \$1,000,000 in trying to build a harbor at Katalla? There is no freight there, is there?

Mr. KENNEDY. Unless it was this coal, I do not know what it was.

Mr. JAMES. Unless it was this coal?

Mr. KENNEDY. That would seem to be the only thing; I will change that. They would take this copper ore from the Bonanza mines.

Mr. JAMES. How far is that from Katalla?

Mr. KENNEDY. I think that would be from Katalla about 165 miles, then about 200 miles to Cordova, so they would have shortened the route some by bringing it to Katalla.

Mr. JAMES. It would be about 160 miles, would it, though, at the nearest?

Mr. KENNEDY. To the copper.

Mr. JAMES. And the coal is just about 20 miles, as I understand you?

Mr. KENNEDY. They branch off on this road. If they made the harbor at Katalla that would give them 25 miles to this harbor with the coal.

Mr. JAMES. So the purpose was, if I get your idea of it, to bring copper 160 miles would shorten the route maybe 35 or 40 miles?

Mr. KENNEDY. Yes, sir.

Mr. JAMES. And yet they would be within 25 miles of the coal?

Mr. KENNEDY. Yes, sir; that would save them hauling—if they did haul the coal—the 60 miles farther to Cordova.

Mr. MADISON. And they developed copper mines up there?

Mr. KENNEDY. I did not say that, but I understand they are developing extensively copper mines and are expending a lot of money on the railroads to reach this copper.

Mr. MADISON. In Alaska?

Mr. KENNEDY. Yes, sir; I was up 50 miles of the road and they told me there was a road to lay rails on for 50 miles more.

Senator FLETCHER. Where is the road being built?

Mr. KENNEDY. It goes up the Copper River, making the terminus at Cordova.

Senator FLETCHER. Have you an idea about the rate of freight from Cordova to Seattle or San Francisco on the road?

Mr. KENNEDY. No, sir; I do not believe I would be an authority on that.

Senator FLETCHER. You can not give an estimate as to that?

Mr. KENNEDY. Well, if they went into it—and that is absolutely approximate on my part—they might haul that down for about from 50 to 75 cents a ton.

Senator FLETCHER. What became of Mr. Stoner?

Mr. KENNEDY. He is at San Francisco.

Senator FLETCHER. Did you leave him up there when you came back to Seattle?

Mr. KENNEDY. No, sir; he came back a little while before I did.

Senator FLETCHER. Did he make any report?

Mr. KENNEDY. No, sir; he located this point on the ground—several of them—for me and secured some affidavits, and went to the

Juneau land office when I was about finishing. I instructed him to go to the Juneau land office and get a record of the maps filed in the surveyor-general's office showing the location of all these coal claims.

Senator FLETCHER. Do you know whether he agreed with you as to your estimates there, or with the forester?

Mr. KENNEDY. He is not a coal man at all. He was just simply a locating engineer. He did not go up there to make any report.

Senator FLETCHER. He went to assist you, did he?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. Is there any coal being mined in Alaska now?

Mr. KENNEDY. I understand that there is a little.

Mr. MADISON. Where?

Mr. KENNEDY. It is almost up in the circle. They are mining some.

Mr. MADISON. Where?

Mr. KENNEDY. Up in the circle. They have some small mines working.

The CHAIRMAN. That is on the Yukon River, away in the interior.

Mr. KENNEDY. Some of it, and they say they take out a little for local purposes in Cook Inlet, and they mined some in this Katalla field and did little practical developing.

The CHAIRMAN. The circle coal is lignite coal, is it?

Mr. KENNEDY. I understand that it is. The samples that I saw show it to be.

The CHAIRMAN. There is lignite coal at various points on the Yukon River.

Mr. KENNEDY. Yes, sir. All the samples that I have ever seen are lignite.

Mr. JAMES. Did you say that the Cunningham group was on the river there that might be used for transportation to the sea?

Mr. KENNEDY. No, sir; you would have to build some railroad before you could ship any of the Cunningham coal; the river is not navigable anywhere.

Senator ROOT. It is the Bering River?

Mr. KENNEDY. Yes, sir; and you would have to work on the tide.

The CHAIRMAN. That is a glacial stream, coming from glaciers up above?

Mr. KENNEDY. Yes, sir.

Mr. OLMSTED. Up in Pennsylvania when parties invest in mining they do not pay much attention to the outcropping. They put in a diamond drill, take out a core, and find out about the thickness of the coal at different parts of the tract. Did you do anything of that kind?

Mr. KENNEDY. Yes, sir; I spent a lot of money for people on that tract.

Mr. OLMSTED. I mean in the Cunningham claims?

Mr. KENNEDY. No, sir; I do not think there is any drilling at all ever done there.

Mr. OLMSTED. You just rely on the outcropping?

Mr. KENNEDY. Yes, sir; well, I will recall that. They drove one tunnel in, so that it went, I think, about 800 feet.

Mr. OLMSTED. Did they go in horizontally or perpendicularly?

Mr. KENNEDY. They followed the vein; went on the strike of the vein.

Mr. OLMSTED. That would not tell you how thick the vein was.

Mr. KENNEDY. Yes, sir; they crosscut it, and you could see the thickness of the vein.

Mr. OLMSTED. How thick was that vein?

Mr. KENNEDY. I think that was a 24-foot vein.

Mr. OLMSTED. You said that in Washington the royalty on coal was from 10 cents to 25 cents per ton where it was near the railroad?

Mr. KENNEDY. Yes, sir.

Mr. OLMSTED. Or near the water. Now, is the coal higher there than it is in Pennsylvania or New York or Washington, or would it sell at a larger price?

Mr. KENNEDY. Why, it is hard to answer that question. I guess it sells for about \$9, does it not, in New York or Washington now—the anthracite?

Mr. OLMSTED. The anthracite sells for about \$7.

Mr. KENNEDY. By the time you get that coal home—some of the lump coal on the coast is selling as high as \$9 delivered.

Mr. OLMSTED. Now, if these vast quantities of coal in the Cunningham group should begin to be mined and brought to the market, would not the price come down?

Mr. KENNEDY. It should come down, I think.

Mr. OLMSTED. Then the coal would be worth less to the person operating the mine, would it not?

Mr. KENNEDY. Yes, sir; it would be worth less if the price of coal was reduced.

Mr. OLMSTED. You estimate that it is worth 25 cents in the Cunningham group—25 cents a ton royalty now?

Mr. KENNEDY. No, sir; I would not like to be quoted as saying that I thought it was worth that. I said they were paying, on such conditions in the States, from 10 to 25 cents.

Mr. OLMSTED. That is in Washington?

Mr. KENNEDY. Yes, sir.

Mr. OLMSTED. But not in Alaska?

Mr. KENNEDY. No, sir; I did not intend to say that they could pay that.

Mr. GRAHAM. How is the present supply in Washington and the Pacific slope?

Mr. KENNEDY. Well, lump coal—the coal in Washington, on the Pacific slope—is rather an inferior grade of coal, and for domestic use they burn only the lump coal.

Mr. GRAHAM. Is there an abundant supply of it, such as it is?

Mr. KENNEDY. I would not say that there was an abundant supply on the coast.

Mr. GRAHAM. And if the population of the Pacific slope increases, as you have every reason to believe it will, would not there be a very great additional supply of coal needed to meet the growing population?

Mr. KENNEDY. It is my opinion that it will grow and that there will be a larger consumption.

Mr. GRAHAM. Where can they get the additional supply if not from Alaska?

Mr. KENNEDY. I always thought that the coal area was well defined in the coast range there, and that they would have to get that Alaska coal for the additional supply.

Mr. GRAHAM. So that the growing population and the decrease in the coal supply and coal area on the Pacific slope would more than equalize the increased supply on account of the Alaska coal and the price would not fall, probably.

Mr. KENNEDY. Well, the price on lump coal may fall, but on steam coal I do not think it will.

Mr. DENBY. It seems to be your idea—and perhaps I gathered a wrong impression, and if I did, of course, you will correct me—that the Government ought to keep the ownership and control of these coal fields in itself.

Mr. KENNEDY. No, sir; I never expressed myself in that way.

Mr. DENBY. I understand; I am asking you. I did understand you to say something of that sort.

Mr. KENNEDY. No, sir; I intended to say that a good law should be enacted for Alaska, governing the output of the coal and the mining of it, so that it would not be wasted, because I think we will need all the coal.

Mr. DENBY. The Panama Canal will cost from three hundred and fifty to five hundred million dollars. If the Government kept the ownership and put that amount in in developing those coal fields do you think it could do it at a profit and to the benefit of the people of the United States? Well, that is a foolish question, and I will withdraw it.

The CHAIRMAN. What would you think of a proposition of the Government building that road to Cordova Bay and then leasing the coal? Do you think that that would be a good idea?

Mr. KENNEDY. If those entries are bona fide I do not see how they could lease it, hardly.

The CHAIRMAN. How is that?

Mr. KENNEDY. If those entries are bona fide I do not see how they could.

The CHAIRMAN. Supposing those entries were canceled, what would you think of the plan of the Government building that road and leasing the coal fields there? Wouldn't that be a feasible and practical plan?

Mr. KENNEDY. It would be a feasible plan.

The CHAIRMAN. Do you think it would suit the conditions of Alaska?

Mr. KENNEDY. Well, Alaska, perhaps, will never be very thickly populated, and the greatest amount of that coal would be used at other points.

Mr. GRAHAM. Could not the coal be handled very much more economically and made very much more useful to the people generally if the plan suggested by the chairman were followed?

Mr. KENNEDY. Well, has it been demonstrated that the Government does handle them that way?

Mr. GRAHAM. All coal mines owned by the Government have been handled that way. But is it not true that when private interests run the coal mines of the country, they do not usually handle the coal, the natural supply, economically; that is, there is a great deal of waste in order to get profits quickly?

Mr. KENNEDY. With the individual?

Mr. GRAHAM. Yes, sir.

Mr. KENNEDY. Yes, sir; that is often the case.

Mr. GRAHAM. If the Government retained the coal as its property and superintended or controlled the manner of its getting out, could it not prevent that waste, or nearly all of it?

Mr. KENNEDY. If they were willing to pay a little more cost for the production, they could prevent it.

Mr. GRAHAM. And the railroad which the chairman referred to would, you have already stated, in your judgment, be a paying proposition?

Mr. KENNEDY. Yes, sir.

Mr. GRAHAM. Why would not the suggestion of the chairman be a very wise one to follow, in your judgment; to build the railroad and lease it and the coal mountain to lessees under proper conditions, reserving to itself the right to control the manner of mining so there would not be unnecessary waste?

Mr. KENNEDY. Well, it has been my experience that they could prevent this unnecessary waste by doing that, but it has always been my experience that it is very hard for the Government to make money on their operation.

Mr. GRAHAM. It need not be a money-making scheme for the Government, but rather one for the conservation of a necessary element, the coal, for the use of the people?

Mr. KENNEDY. There is no reason why the thing could not be done that way.

Senator SUTHERLAND. If that were done, and the plan followed, do you not think it would be rather a radical departure from the doctrine of the party to which Mr. Graham belongs?

Mr. GRAHAM. Those doctrines have been smashed so that I do not recognize them any more—by your friends. They are unrecognizable almost.

The CHAIRMAN. Gentlemen, are you through with the witness?

Senator SUTHERLAND. I want to ask another question. Mr. Kennedy, you have stated that the royalty in Washington coal mining is from 10 to 25 cents a ton.

Mr. KENNEDY. Yes, sir.

Senator SUTHERLAND. Comparing the conditions under which the Katalla field mining would be done with the conditions in Washington, what would you think a fair royalty in the Katalla field?

Mr. KENNEDY. I would think that 15 cents would be a reasonable royalty.

Senator SUTHERLAND. Is that assuming that the lessee has to build a railroad to Cordova or build a railroad to some nearer point to make the harbor, or assuming that somebody else does it?

Mr. KENNEDY. I am basing that on the cost of production; but if the railroad was not there, of course, he could not mine it, and he would not want it, and if he had to build a railroad he would want a lot more area.

Senator SUTHERLAND. Suppose the Government adopts the plan of retaining the title to this particular coal field and leases it upon a royalty, what would be the smallest area that it would be profitable and practicable to lease?

Mr. KENNEDY. Physical conditions have a great deal to do with that.

Senator SUTHERLAND. When you take into view the physical conditions of the Katalla field, would it be good business for the

Government to lease 160-acre tracts, or twice, or four, or ten times that?

Mr. KENNEDY. Well, there are some portions, where, if you had no expense of railroad and simply worked on the crop of the vein, the conditions would be much more feasible, but if you had to take your coal up on top of the mountain, then your conditions would be more expensive; so that you would have to figure that your expenses were going to be so much, and you would have to have so many tons. You would figure a reasonable profit, if you were estimating a proposition of that kind—the cost of producing and the cost of profit per ton.

Senator SUTHERLAND. And assuming that the lessee has to build a railroad, what would be the smallest area that it would be a good business transaction for the Government to lease?

Mr. KENNEDY. Well, it has not been demonstrated to me that you could load this coal at any point but Cordova as yet, and that would be 90 miles, and that is an undertaking which could not be gone into offhand.

Senator ROOT. You can not give any idea of the smallest area?

Mr. KENNEDY. I would not care to on building a 90-mile road which is the only feasible harbor at this time.

Mr. GRAHAM. Mr. Kennedy, see if this calculation is about correct with reference to what this coal would yield at a royalty of 15 cents a ton. An acre of coal 1 foot thick yields about, or contains about 1,750 tons, does it not?

Mr. KENNEDY. As a merchantable, marketable coal?

Mr. GRAHAM. Well, in the ground, about.

Mr. KENNEDY. Well, I would say that was a little bit too high.

Mr. GRAHAM. Would it yield 1,500 tons to the acre, 1 foot thick?

Mr. KENNEDY. I usually estimate the weight of that coal, that general coal, at about 1,200.

Mr. GRAHAM. Well, taking it on the basis of 1,500, on which I calculate, 1,500 tons per foot thick per acre, 26 feet would make 39,000 tons per acre; deducting from that 10 per cent, or a little over 10 per cent, say, 4,000 tons, would leave 35,000 tons per acre to be marketed at 15 cents royalty per ton; that would be \$5,270 per acre.

Mr. KENNEDY. That would be the basis that I would figure it on those are the figures I would arrive at if I were basing it on that thickness of the vein.

Mr. OLMSTED. Did you ever know of any bituminous coal land to be sold anywhere on earth at such figures?

Mr. KENNEDY. No, sir.

Mr. GRAHAM. Did you ever know of any bituminous land having a 26-foot-thick vein?

Mr. OLMSTED. There is plenty of it in Virginia, within 250 miles of Washington. Have you ever had any experience with the bituminous coal lands of Pennsylvania?

Mr. KENNEDY. Yes; I operated one and I owned one.

Mr. OLMSTED. Which would be more expensive—operating a bituminous coal mine in Pennsylvania or one in the Katalla field in the Cunningham group?

Mr. KENNEDY. It would be more expensive in Alaska.

Mr. OLMSTED. And what is the highest royalty you have ever known to be paid on bituminous coal in Pennsylvania?

Mr. KENNEDY. I believe 10 cents.

Mr. OLMSTED. You are right; that is the highest that has ever been paid. Do you think that if bituminous coal in Pennsylvania lying on the main track of the Pennsylvania Railroad, with a hundred big cities for a market, is worth only 10 cents royalty per ton, that a coal mine lying back in a glacier 90 miles from a harbor in Alaska is worth 15?

Mr. KENNEDY. I think coal would be 15 cents a ton if you are going to lease it, but I won't say that this is absolutely my proposition or my idea of leasing the coal land.

Mr. GRAHAM. Which would have been better for the people of the United States; that is, whether the Pennsylvania mines, to which Mr. Olmsted refers, had been kept as the property of the Government and leased out, the royalty to go to the Government, or to the people at the end, or, as has been, that they were owned by private interests and exploited for private benefit and made the basis of great private fortunes?

The CHAIRMAN. He should have consulted William Penn on that proposition.

Mr. OLMSTED. The lands in Pennsylvania never belonged to the Government.

Mr. GRAHAM. Now, we are starting at a point where these lands do, and the question is one of policy—whether we should pursue the Pennsylvania plan now or abandon it and pursue another.

Mr. KENNEDY. The best evidence of that is that if the Government mined it on the basis that individuals have it would have made a lot of money.

Mr. GRAHAM. That would have been the people's money and not the money of private individuals who use it to the people's disadvantage.

Mr. OLMSTED. If the Government had retained the coal, Pennsylvania would be in about the same condition now that Alaska is, could it not?

Senator FLINT. Is the road being constructed now from Cordova Bay, so that it will reach this coal field?

Mr. KENNEDY. Why, I think they discontinued work on that branch; they did some work on it.

Senator FLINT. But they have worked upon it?

Mr. KENNEDY. Yes, sir.

Senator FLINT. Going from Cordova Bay to the copper fields, they would have to pass these coal fields?

Mr. KENNEDY. No, sir.

The CHAIRMAN. Oh, no.

Senator FLINT. They would not?

Mr. KENNEDY. No, sir.

Senator FLINT. How far would it be from the coal fields?

Mr. KENNEDY. I think it is about 60 miles.

Senator FLINT. Sixty miles would be the nearest from the coal fields to the main line from Cordova to the copper fields?

Mr. KENNEDY. I think it would be in that neighborhood.

Senator FLINT. Would, in your opinion, a royalty of 15 cents a ton make any difference in the price to the consumer as between having free or a royalty of 15 cents?

Mr. KENNEDY. They ought to give it to the consumer 15 cents less.

Senator FLINT. Do you think they would?

Mr. KENNEDY. They ought to.

Senator FLINT. But as a matter of fact is that so?

Mr. KENNEDY. I hardly think it would be.

Senator FLINT. Now, as a matter of fact, the royalty that is now paid in Washington is based on the market price of coal, is it not?

Mr. KENNEDY. And the mining situation.

Senator FLINT. The situation of the mines?

Mr. KENNEDY. Yes, sir.

Senator FLINT. So that as a matter of fact if the Alaska coal was leased and a royalty of 15 cents a ton paid for it, the Government would receive 15 cents a ton and the consumer would pay no more in competition with the coal of Washington?

Mr. KENNEDY. Well, I do not know about that; I do not think that that would reduce the cost very much.

Senator FLINT. Well, you have been in the coal business. You ought to know whether 15 cents a ton would make any difference to the consumer.

Mr. KENNEDY. They forget about the consumer.

Senator FLINT. But I am trying to get you to remember about him.

The CHAIRMAN. I would suggest to the Senator that we have another committee investigating that subject.

Senator FLINT. I want to get this question from this witness.

Mr. KENNEDY. Why, when I sold it I forgot about the consumer. I went for the market for all that I could get out of it.

Senator FLINT. So as a matter of fact, to just repeat the question if a royalty of 15 cents a ton was charged, and the coal lands of Alaska were leased upon that basis, it would not affect the price to the consumer, in your opinion?

Mr. KENNEDY. Well, I do not know just how to answer that. That is only a question. The miner or the operator tries to get all he can, no matter how much it costs him.

Senator ROOT. That is a peculiarity of coal mining, is it not?

Mr. OLMSTED. Suppose you were operating these mines, you could afford to sell coal to the consumer for a little less if you did not have any royalty to pay?

Mr. KENNEDY. I could afford to; yes, sir.

Mr. OLMSTED. Is it your judgment that the best thing for the people, for the Government to do, would be to allow this coal to be mined without any royalty?

Mr. KENNEDY. No; I did not say that.

Mr. OLMSTED. But would not your argument, your reasoning lead to that conclusion? You could undersell everybody else then.

Mr. KENNEDY. They do not usually try to undersell them.

Mr. OLMSTED. I mean the Government could, the operators of these mines.

Mr. KENNEDY. If they could mine it with the same economy, they could sell it for 15 cents a ton less.

Mr. OLMSTED. That would help the people so much?

Mr. KENNEDY. Yes, sir.

Senator FLINT. Would, in your opinion, the consumers of coal on the Pacific coast receive coal at a lower price or a higher price if these lands were patented to those who have now filed on them, or retained by the Government and leased at a royalty of 15 cents per ton?

Mr. KENNEDY. At the present time there is a 15-cent difference here, but I am not fully familiar with the transportation facilities.

Senator FLINT. I am assuming that the railroad is built into this all land by private individuals, that anyone can ship over it.

Mr. KENNEDY. Well, this would make a difference in the cost of hauling it on that railroad and the cost of hauling it from this wharf into Seattle. That would make a difference as to whether they could be able to get cheaper coal.

Senator FLINT. I am assuming that this railroad has been constructed, and in one instance it was constructed by private individuals to control the coal fields and ship coal to the Pacific coast markets; on the other hand, this railroad was built by private individuals to the coal fields, and the title to the coal fields retained by the Government, who leased it at a royalty of 15 cents a ton.

Mr. KENNEDY. Would not that make a difference as to where one is a 65-cent freight rate from the mines to Seattle ports, and if it is as greater from Alaska ports?

Senator FLINT. I am trying to get at what the Alaska field would sell for; whether the consumer would have the coal from the Alaska field for less.

Mr. OLMSTED. He means it would depend on the freight rate on the railroad.

Mr. KENNEDY. And the transportation on the boat down.

Senator FLINT. If it was owned by the private individuals, would that freight rate have to be paid just the same?

Mr. KENNEDY. It would have to be paid just the same, but as I understand your question you want to know whether the people of Seattle could get cheaper coal.

Senator FLINT. Get cheaper coal if the title was retained by the Government and leased at a royalty of 15 cents, or whether the coal lands were allowed to pass to these private individuals and owned by these various corporations or individuals, as has been testified to here.

Mr. KENNEDY. Well, I do not believe I will be prepared to answer that.

Senator FLINT. You can not answer that?

Mr. KENNEDY. I would not like to give an opinion on that offhand.

Senator ROOT. How does this coal compare with the British Columbia coal, the Bellingham coal?

Mr. KENNEDY. The Bellingham coal is not very good; the field is quite faulty, and the quality is similar in one portion. They have a similar coal to that Bellingham coal.

Senator ROOT. How does it compare with the Vancouver Island coal?

Mr. KENNEDY. The Vancouver Island coal; that compares favorably with some of the coal up there, and it looks a great deal like it, but I think the Alaska coal has more heat units than the British Columbia coal.

The CHAIRMAN. And is not the Vancouver coal superior to Washington coal?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. And is there not a large supply of coal at several points on Vancouver Island?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. The inquiry has gone into a new field, and I would like to ask a question or two.

Mr. Kennedy, is it not true that the whole Pacific coast from San Francisco up, those cities that consume coal, get their coal entirely from British Columbia and Japan and Australia, and even from the British Isles?

Mr. KENNEDY. They get some from there, and also get some from Washington.

Mr. VERTREES. Well, but the principal supply, does it not come from British Columbia, and even Hawaii, parts of it, and from Japan and Australia?

Mr. KENNEDY. Well, I understand that those boats are even shipping it into Seattle from some of those points.

Mr. VERTREES. Isn't it true that in Alaska there is not more than, say, 3,000 tons of coal mined there; just a small quantity?

Mr. KENNEDY. It is very small.

Mr. VERTREES. And is it not also true that Alaska herself consumes something over a hundred thousand tons of coal that is imported from other countries?

Mr. KENNEDY. I have seen those figures, and I think they are approximately right.

Mr. VERTREES. At any rate, whether those figures are right or not, this is true, that the Alaskans themselves are importing coal from foreign countries for use there?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And they produce a very small quantity, not more than, say, 3,000 tons, or something like that?

Mr. KENNEDY. There is practically no mining done.

The CHAIRMAN. They are saving these Katalla fields and using the foreign coal.

Mr. VERTREES. Yes. Now, you have spoken of the Katalla fields. I will ask you if it is not true that it is the report of the government geologists that it is believed that there are some 12,000 square miles of land that is coal-bearing, profitable coal-bearing, in Alaska, so far as you know?

Mr. KENNEDY. Twelve thousand square miles?

Mr. VERTREES. Yes.

The CHAIRMAN. Twelve thousand square miles, you mean?

Mr. VERTREES. Yes; in Alaska.

Mr. KENNEDY. I saw the map of it several times, but I never went into the figures.

Mr. VERTREES. There are something over 1,200 that are absolutely known to be profitable coal-bearing fields, if they can be worked?

Mr. KENNEDY. There is a large area there.

Mr. VERTREES. One thousand two hundred square miles, I mean. Now, I believe you have stated that the two most valuable fields are what you call the Matanuska field and the Katalla field; is that correct?

Mr. KENNEDY. Well, I do not believe I said much about the Matanuska field, because I never saw it.

Mr. VERTREES. What is your information?

Mr. KENNEDY. My information is that it is very good.

Mr. VERTREES. Do you know how large it is?

Mr. KENNEDY. Only from looking it over on the geological map.

Mr. VERTREES. Well, how large is that field?

Mr. KENNEDY. I really did not go into it so as to remember those areas.

Mr. VERTREES. Your recollection is that the Katalla field is something like 75 square miles?

Mr. KENNEDY. I think I said something like 15 miles by 5 miles.

Mr. VERTREES. Well, that would be 75 square miles?

Mr. KENNEDY. That is approximately it; I did not intend to say—

Mr. VERTREES. I understand that; but it is 50 or 75; somewhere here?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Now, these Cunningham mines are about how many square miles?

Mr. KENNEDY. I think that tier runs about 4 miles long and 2 or 3 miles in width.

Mr. VERTREES. And the Cunningham mines are something like 8 square miles out of what you have estimated to be 75 square miles of his splendid coal field?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Isn't that a correct statement?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. Now, you have mentioned the fact that there were a large number of veins found on this land; I will ask you if this is not true, Mr. Kennedy, that the lands there are all of very great structural complexity, so that it is very difficult to tell whether those veins really are natural veins or are veins that have been thrown onto each other?

Mr. KENNEDY. No; I do not think it was a terribly difficult thing to tell that part of it.

Mr. VERTREES. Still, I think you expressed a doubt as to that?

Mr. KENNEDY. No; I thought there was no repetition in the veins.

Mr. VERTREES. You have spoken of these veins ranging from 30 to 60 feet thick, I thought you said—some of them.

Mr. KENNEDY. I said I thought one would average about 24 or 25 feet.

Mr. VERTREES. I will ask you, as a practical business proposition, it is not unprofitable to work veins when you get up as high as 35 or 30 feet in any kind of coal?

Mr. KENNEDY. No, I would not think so.

Mr. VERTREES. Have you studied the government publications on this subject?

Mr. KENNEDY. Well, I have seen it mined.

Mr. VERTREES. You have seen it mined?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. I want to call your attention to Bulletin 424, entitled "The Value of Coal Land," by George H. Ashley. "Depth and minimum thickness of base as limiting factors in valuation," by Cassius A. Fisher, published in the present year by the Government.

Now, that is the Mr. Fisher who went up there and made this third report, is it not?

Mr. KENNEDY. I think so.

Mr. VERTREES. I want to read you this extract and ask you to state whether or not this is true [reading]:

The value of the thick beds of the West, ranging from 50 to 80 feet, is still problematic. Beds up to 15 feet thick are successfully worked. Robert Forrester states that it should be possible to get 80 to 90 per cent of the coal from a 14-foot bed. From beds above that thickness the percentage of recovery with present mining practice is likely to fall rapidly with increase in the thickness of the beds until, with beds from 30 to 50 feet thick, the recovery may drop down to 25 per cent, or the bed prove to be unworkable by present methods. Numerous attempts to work beds 30 feet thick have had to be abandoned. In some of the western mines on thick coal—as in the Colorado Fuel and Iron Company's mine at Newcastle—it has been impossible to keep out fire.

And just there I will pause to say I believe you stated you regarded that as one of the difficulties here, on account of gases.

Mr. KENNEDY. Yes, sir.

Mr. VERTREES (continuing to read):

On the other hand, in the anthracite region of Pennsylvania and in European countries thick coals are successfully mined, the method being to mine out a part of the coal, fill in the area excavated so as to support the roof, then mine out the rest of the coal. In its details the method varies greatly, but the general principle involved is the same.

Is that correct?

Mr. KENNEDY. I have seen veins from 24 to 25 feet thick worked, and also one I should say that was about 50 feet, before they knew anything about this filling-in work.

Mr. VERTREES. And is not the further report as follows, on page 21:

Nevertheless the fact remains that while there can be no doubt as to the workability of the beds of the Western States, with a high percentage of recovery from most of them, they can not be so worked to-day with financial success in competition with other coals. Where it is necessary to fix the price on a thick bed for immediate sale and mining, the writer would suggest that it be considered as a multiple bed; that is, that the first 15 feet of it be considered as a first bed, carrying full value; that the next 15 feet be considered a second bed and valued accordingly; that the third 15 feet be considered a third bed, etc.

Now, is not that an accepted view with reference to the mining of thick veins?

Mr. KENNEDY. The thick veins are a little more difficult to mine, but where they pitch as they do there you drive up narrow, and I think they can be successfully mined. You take your pillar back.

Mr. VERTREES. Now, you have spoken of the conservation of the coal in the United States. I will ask you if it is not a fact, and so reported by the government officials, that the absolute exhaustion of the coal in the United States up to date is less than one-half of 1 per cent of the known coal fields?

Mr. KENNEDY. Less than one-half of 1 per cent of the coal is exhausted?

Mr. VERTREES. Yes; up to date.

Mr. KENNEDY. I do not believe I remember the figures.

Mr. VERTREES. Do you not remember those?

Mr. KENNEDY. No, sir.

Mr. VERTREES. Is it not also a fact, Mr. Kennedy, that in recent years on the Pacific coast petroleum or crude oil has come to be used as a fuel to a very large extent?

Mr. KENNEDY. Yes, sir.

Mr. VERTREES. And is it not also true that electricity is being used as a power by means of water power?

Mr. KENNEDY. They use quite a lot of it.

Mr. VERTREES. So that is it not true that oil and heat power generated by electricity, generated by water power, is being used very largely now in that part of the country in the West?

Mr. KENNEDY. Yes, sir; in the coast country.

Mr. VERTREES. That is what I mean, the coast country. Do you not know it is a fact, too, that the people in Seattle get their anthracite coal from Pennsylvania?

Mr. KENNEDY. I have seen some there; yes, sir. I have also stated that that coast coal was of a very inferior quality.

Mr. VERTREES. Where do our battle ships, the ships of the navy, get their coal on the Pacific coast?

Mr. KENNEDY. They have been shipping some around from the anthracite country.

Mr. VERTREES. Shipping it around?

Mr. KENNEDY. Yes, sir.

Mr. JAMES. Around from where?

Mr. KENNEDY. I understand from the Eastern States.

Mr. JAMES. The Atlantic coast?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. How does this Alaska coal compare with the coal from the coast States?

Mr. KENNEDY. I think it is a much better quality of coal.

Mr. MADISON. Much better quality of coal?

Mr. KENNEDY. Yes, sir.

Mr. MADISON. Well, in the markets, then, of Seattle and Tacoma and San Francisco it would command a better price?

Mr. KENNEDY. I said that I thought it would command a little better price.

Mr. VERTREES. From whose mines is that coal shipped to that country that is used mostly over there? I mean for battle ships.

Mr. KENNEDY. I do not know. I read that statement; it is just a statement I read.

Mr. VERTREES. You could not state?

Mr. KENNEDY. No, sir.

Mr. MADISON. As a steam-producing proposition, a heating proposition, how much better is the Alaska coal than the Coast State coal, in your judgment?

Mr. KENNEDY. I should say approximately 25 per cent.

Mr. MADISON. Twenty-five per cent?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. Not that much over the Vancouver coal.

Mr. KENNEDY. Not over the Vancouver coal.

The CHAIRMAN. That is in British Columbia?

Mr. KENNEDY. No; it would not be nearly that much over. That is a pretty fair quality of coal in British Columbia.

Mr. JAMES. You spoke of the use of petroleum and electricity out on the coast. What is the cost of petroleum for the same purposes as coal is used; how does it compare with coal in price?

Mr. KENNEDY. They say it is much cheaper; I do not know the figures. Several people have installed plants, and have stated that it was cheaper than to burn coal.

Mr. BRANDEIS. Mr. Kennedy, have you ever heard that there was a monopoly in oil, or substantially a monopoly?

Mr. KENNEDY. I have heard there was.

Mr. BRANDEIS. And did you ever hear that there was danger or a suggestion of danger of a monopoly in the control of the water power of the West?

Mr. KENNEDY. I have heard so, but it is just hearsay to me.

The CHAIRMAN. Are there any more questions? Do the counsel desire this witness to stay any longer?

Mr. VERTREES. No; we do not.

The CHAIRMAN. Well, Mr. Kennedy, you are excused.

(The witness was thereupon excused.)

Mr. BRANDEIS. Mr. Chairman, in this connection I desire to call the attention of the committee to page 401 of Senate document, to a part of the geological survey on the Katalla field which has been put in evidence but not read. I desire to call attention to the following passage:

It may be seen from these tables that the Bering River anthracite has no equivalent among the coals now being mined on the Pacific coast and that it compares favorably with Pennsylvania anthracite. It ought to be put into the San Francisco and other Pacific coast markets at a cost far below that of eastern coal, in which case it should have no difficulty in entirely supplanting the latter.

The Bering River semibituminous (like part of the semibituminous coal from Matanuska River) is also better than anything that is being mined in the West. These coals are the equivalent of the Pocahontas, New River, and Georges Creek coals of the East and are eminently adapted for use on war ships and for other purposes for which a high-grade, pure, "smokeless" steaming coal is required; and for these purposes will command a considerably higher price than any coal that is now being mined on the Pacific coast, or if offered at equal prices should readily drive the latter from the market.

Part of this coal will produce an excellent quality of coke, better, in fact (except possibly regarding content of phosphorus, regarding which few data are available), than coke which can be produced from any of the Washington and Vancouver Island coals and equal to the coke from Crows Nest Pass. If an important smelter industry grows up in Alaska, as now seems possible, the Bering River coking coal should have the advantage, both in quality and in transportation rates, over any coking coal which is now being used on the Pacific coast.

Mr. McCALL. Mr. Brandeis, who wrote that?

Mr. BRANDEIS. That is a geological report; that is a report that is a part of the Senate document which has been put in evidence at your suggestion, Mr. McCall.

I also call attention in the same report—it is a long report, which begins on page 297 of Senate document—

The CHAIRMAN. Well, that is already in evidence.

Mr. BRANDEIS. It is in evidence, and I am merely calling attention to certain passages in it.

The CHAIRMAN. Would not that be more in the nature of an argument, after the evidence is all in?

Mr. BRANDEIS. I think not. I think it is reading a part of a document, and I desire to read this part, which is very brief, Mr. Chairman. It is on page 304, the last paragraph beginning on the page, referring to the development of the Alaska coal fields [reading]:

Coal was discovered about the same time as the petroleum. Probably all of the coal land within easy reach has now been located. The lands have been for the most part surveyed for patent application by deputy mineral surveyors. A large number, probably several hundred, of service prospect openings have been made, and about twenty tunnels have been begun.

I desire also to call attention, on page 396, to the map which is entitled "Map of Alaska, showing distribution of coal and coal-bearing rocks, so far as known." And I would call particular attention on

that map to those portions which indicate the areas known to contain workable coal.

Senator FLINT. Have you finished?

Mr. BRANDEIS. Yes.

Senator FLINT. I am not going to object; I do not object to your putting this in at this time, but it seems to me we are just duplicating the record by doing this. If you continue it, Mr. Vertrees would then read the balance of the report that he thought would apply to his case, and we would just simply have that report in the record twice. Now, I would like to know from you what advantage that would be. This is now in the record, and you can call our attention to it in argument.

Mr. BRANDEIS. It seems to me, Senator, that we have in all instances pursued the practice, or endeavored to pursue the practice, of calling attention to those portions, instead of reading the document in full, as it was sometimes found to be very wearisome to call attention to those few passages in the document which ought to be called to the attention of the committee. Of course, if the argument is to be a very long one, I can call attention to all of those; but I thought, in view of the very lengthy examination of Mr. Kennedy, that it would be instructive to the committee, if it is the desire of the committee, to have called to its attention what the government survey and the official reports which appear in Senate documents says on this particular subject. Of course, if it is not the desire of the committee—

Senator FLINT. I have read the document several times myself.

Mr. BRANDEIS. I dare say that you are far more familiar with it than I am, and those passages struck me as being important to call the attention of the committee to.

The CHAIRMAN. Is there any further testimony, Mr. Brandeis?

Senator SUTHERLAND. I want to call Mr. Barr before you take up any other witness.

WILLIAM W. BARR RESUMED STAND FOR FURTHER EXAMINATION.

Senator SUTHERLAND. Mr. Barr, you answered me when you were on the stand before, as I recall it, to the effect that Mr. Glavis had gone to Vancouver before talking with you, and then had called your attention to these lieu lands; is that correct?

Mr. BARR. I think so; yes, sir.

Senator SUTHERLAND. I said to you, if I recall the testimony, that you had said the day before that you had sent Mr. Glavis there?

Mr. BARR. Well, the way this came up—

Senator SUTHERLAND. That is correct, is it—you recall that I called your attention to that testimony?

Mr. BARR. Well, yes; I remember that you called my attention to it.

Senator SUTHERLAND. Now, let me ask you this—I have looked at the record since you were on the stand before, in view of your statement—what you meant by this testimony, beginning on page 1057 of the record: Mr. Vertrees asked you, "And when you went out in September"—speaking of Mr. Glavis—

In November you made this agreement with him that this land of that character that could be gotten, you would furnish the money and the profits would be divided equally; that is right, is it?

Mr. BARR. How is that, that we would divide the profits equally?

Mr. VERTREES. Yes; if you could acquire this land of that character and be successful in it.

And this I called your particular attention to:

Mr. BARR. Yes, sir; but I believe I wrote Mr. Glavis; I called his attention to it and got him to go down and look this information up.

What did you mean by that—down where?

Mr. BARR. Go to Vancouver, but I don't think that is correct.

Senator SUTHERLAND. What do you think is correct?

Mr. BARR. If you will let me explain that.

Senator SUTHERLAND. Go on.

Mr. BARR. We had some talk in regard to parties in Portland who had acquired timber in this way, and that talk took place in my office, and I recall that I had stated to Mr. Glavis that there ought to be an opportunity to find some more land that could be acquired in this same way. These Portland people had taken from the State some 3,500 acres which cost approximately—I think the price for the scrip was about \$8 at that time—perhaps \$25,000. I had been over this timber, parts of it, and I knew it to be worth in the neighborhood of \$240,000 or \$250,000; and it was really this information that prompted me at this time to make the suggestion to Mr. Glavis to look into the matter.

Senator SUTHERLAND. Did you send him to Vancouver, or did he go of his own motion?

Mr. BARR. He must have gone of his own motion, after this talk.

Senator SUTHERLAND. Then what do you mean by saying that you wrote to Glavis, called his attention to it, and got him to go down and look this information up? You mean you got him to go to Vancouver, do you not?

Mr. BARR. Yes, I think so.

Senator SUTHERLAND. Did you get him to go down to Vancouver?

Mr. BARR. Why, his going to Vancouver was the outcome of this talk which we had in the office; now, whether I wrote him or not, I can not tell.

Senator SUTHERLAND. Didn't you send him to Vancouver?

Mr. BARR. His going to Vancouver was the outcome of this talk that we had.

Senator SUTHERLAND. Now, again, on page 1070, let me call your attention to this:

Mr. MADISON. Now, what did Glavis have to do with the matter? Did he select the land for you? Did he find it?

Mr. BARR. No, sir; I had him go down to Vancouver to look this up for me and afterwards I investigated that land and found the part that I wanted and made the selection.

Mr. MADISON. You had him go to Vancouver and look at it for you?

Mr. BARR. That is the state or local land office that has jurisdiction over the territory where this land is located.

Now, you repeated it again, and there said you got him to go to Vancouver.

Mr. BARR. I may have had in mind in connection with these selections that I have given there—the first time that we had this matter up in November, the first selection I believe was made on the 17th or 18th of November, and at that time we selected 520 acres, and after that we investigated some 200 more, and we have since selected that, making, I think, 720 acres. Now, it may have been in connect-

with that; I may have had in mind his going to Vancouver in connection with this last selection.

Senator SUTHERLAND. When you said you got him to go to Vancouver, you meant that you did get him to go or you did not get him to go?

Mr. BARR. Well, he went to Vancouver and looked this last piece up at my suggestion.

Senator SUTHERLAND. No. You got him to go, did you?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. Then you were incorrect when you stated this morning, in answer to my question, that he went of his own motion and afterwards reported to you that he had been there?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. That is, you called his attention to the matter first?

Mr. BARR. I called his attention to the matter in connection—

Mr. OLMSTED. In connection with this last tract?

Senator SUTHERLAND. You called his attention to the matter first and got him to go down to Vancouver and look it up; that is correct, is it not?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. Now, I understood you to say that the arrangement with Glavis was that he was to have a half interest in whatever you obtained in that way?

Mr. BARR. Yes; for the work he would do in connection with it.

Senator SUTHERLAND. What work was he to do?

Mr. BARR. I did not understand anything about the manner in which this should be handled. I was not familiar with that end of it.

Senator SUTHERLAND. You were to pay for the land, whatever was obtained, and give him a half interest in it?

Senator PURCELL. A half interest in the profits.

Senator SUTHERLAND. A half interest in the profits derived from the sale of the land?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. And not a half interest in the lands themselves?

Mr. BARR. No, sir.

The CHAIRMAN. Would not this question have to go before the General Land Office for them to determine whether these selections were all right or not?

Mr. BARR. Yes, sir.

The CHAIRMAN. It was business that would ultimately come into the land office?

Mr. BARR. It is before the land office.

The CHAIRMAN. Before the land office?

Mr. BARR. Yes, sir.

Mr. OLMSTED. Let me get this matter straight in my own mind. You stated in one place that Mr. Glavis first brought this to your attention on his return from Vancouver, and in another place that you had sent him to Vancouver. Let me see if I understand you correctly.

Mr. BARR. Well, that was—

Mr. OLMSTED. Wait a minute. As I understand it, there are two transactions, one involving 520 acres, and as to that one he went to

Vancouver before you made the arrangement with him; but, as to the second one he went after you made the arrangement with him; is that the fact?

Mr. BARR. In connection with the first one we had talked the matter over there in Seattle, and he afterward, I think——

Mr. OLMSTEAD. He had already been to Vancouver then, had he not?

Mr. BARR. No. He went down to Vancouver some few days after our talk and got the information and reported it to me, and we got this first 520 acres. That is, I made a protest against the entries through the attorneys in Portland, my attorneys there, and they filed this protest in my name.

The CHAIRMAN. In the land office?

Mr. BARR. In the land office.

The CHAIRMAN. At Vancouver?

Mr. BARR. At Vancouver.

The CHAIRMAN. Protesting against the validity of the state selections?

Mr. BARR. Yes, sir; and then after that I think Mr. Glavis called my attention to the possibility of securing some more which he had looked up, and we investigated and filed similar protests.

The CHAIRMAN. Did Mr. Glavis call your attention to the possibility of securing other land that you could enter with scrip besides this indemnity land—other classes of land?

Mr. BARR. No, sir.

The CHAIRMAN. It was wholly limited to these state selections?

Mr. BARR. Yes, sir.

The CHAIRMAN. Nothing else?

Mr. BARR. No, sir.

Mr. OLMSTEAD. What do you mean by half interest in the profits of the land? You mean when you sold the land you would divide the profit?

Mr. BARR. Sell the land and divide the profit; divide over and above what it cost to acquire them. That is what it cost me, and the cost of the scrip included.

Senator ROOT. What was the cost of this land?

Mr. BARR. Why, the first 520 acres I think cost eight and a quarter dollars an acre, and the second 200 cost twelve and a quarter dollars an acre.

Mr. BRANDEIS. You mean the scrip cost that?

Mr. BARR. The scrip cost that.

Senator PURCELL. But the expense of litigating it is to come yet. is it not?

Mr. BARR. Why, there are other costs besides that, but Mr. Glavis is to take care of that end of it.

Senator PURCELL. That is, he is to look after it before the Land Office?

Mr. BARR. He is to look after it and advise Mr. Moulton.

The CHAIRMAN. There would be the expense of looking after it in the Land Office and attending to it and looking after it here before the Commissioner of the Land Office, would there not?

Mr. BARR. Yes. I do not know anything about that end of it.

Senator ROOT. You spoke of these people in Portland having got for \$8 an acre—or twenty-five or thirty-five thousand dollars—land that was worth \$250,000; is that true?

Mr. BARR. They have made me a price on it, I think, of \$250,000 since that time.

Senator ROOT. That is, they have fixed that price as a selling price?

Mr. BARR. Yes, sir; they had at that time. I do not know what the price is now.

Senator ROOT. And it cost them how much?

Mr. BARR. In the neighborhood of twenty-five or thirty thousand dollars.

Senator ROOT. This selling price that they fixed on, it is about ten times what it cost them to get the land from the State?

Mr. BARR. Yes, sir.

Senator ROOT. Does the value of the land, this 520 acres which you have selected, bear the same relation to the cost?

Mr. BARR. No, sir.

Senator ROOT. How many times the cost is the value of that land?

Mr. BARR. Why, I think it is worth about thirty or forty thousand dollars.

The CHAIRMAN. Ought it not to be leased instead of sold, then?

Senator ROOT. How much is it worth an acre if you have a clear title?

Mr. BARR. Oh, if I had a clear title now it would be worth about \$50 an acre, I should say.

Senator ROOT. And it cost \$8.25 to \$12.25 an acre?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. That is the cost of the scrip, is it?

Mr. BARR. Yes, sir.

The CHAIRMAN. The Vancouver land office is in the Portland district that Mr. Glavis had been at the head of?

Mr. BARR. Yes, sir.

The CHAIRMAN. Is it right near Portland?

Mr. BARR. Yes, sir.

Mr. BRANDEIS. You stated, I believe, that this information in regard to the indemnity scrip is open to anybody who will go there?

Mr. BARR. Yes, sir.

Senator PURCELL. They have it for sale?

Mr. BARR. Yes, sir. It is just the same as commercial paper, you might say.

Senator PURCELL. They got it in lieu of the lands they had lost in other places?

Mr. BARR. Yes, sir.

Senator PURCELL. And the Government could not supply them with it, so they issued scrip?

Mr. BARR. Yes, sir.

Senator PURCELL. And they put it on the market and sell it?

Mr. BARR. Yes, sir.

Senator PURCELL. It is a fact, is it not, that many town sites are patented under it in the Northwest?

Mr. BARR. I do not know; I presume so.

Senator SUTHERLAND. Are there any lands in Washington open to entry with this scrip unless you find it in some such situation as these other lands, upon which the State has filed and upon which they have no right?

Mr. BARR. I do not know of any more; I would like to find some more.

Senator PURCELL. You can take any government land?

Senator SUTHERLAND. I understand it is a pretty difficult thing to find land in Washington that is open to that sort of entry.

Mr. BARR. Yes, sir; that is any good.

Mr. OLMSTED. Have you ever been on this land?

Mr. BARR. No, sir.

Mr. OLMSTED. Have you sent anyone on it?

Mr. BARR. Yes, sir.

Mr. OLMSTED. Before you took it up with Mr. Glavis, or he with you?

Mr. BARR. Yes; I would naturally do that.

Mr. OLMSTED. Before that, I say?

Mr. BARR. Before Mr. Glavis took it up with me?

Mr. OLMSTED. Yes.

Mr. BARR. No, sir.

Mr. OLMSTED. How did you know it was valuable timber land?

Mr. BARR. I had a conclusive report on it.

Mr. OLMSTED. How did you know at the time you and Glavis were talking about it?

Mr. BARR. We investigated it.

Mr. OLMSTED. How did you know, before investigating, that it was timber land?

Mr. BARR. Because it was up in the timber belt; a belt with which I was familiar. I have been all through that country.

Senator ROOT. You told me this morning that Mr. Glavis suggested this subject to you.

Mr. BARR. The descriptions which I gave you this morning recalled those exact descriptions to my mind.

Senator ROOT. The first suggestion of the subject on getting the land in this way that ever came to your mind was from Mr. Glavis, was it?

Mr. BARR. Yes, sir; I think it was. I think he brought the subject up. But just the details as to how we got into this I do not remember.

Mr. OLMSTED. Did he tell you this was good timber land?

Mr. BARR. He did not know anything about the timber in there.

Senator PURCELL. I thought you said you had heard people at Portland, who had acquired land in this way, speak of it, and you had talked it over with Mr. Glavis.

Mr. BARR. He wanted to know if Mr. Glavis knew anything about that timber. This timber the Portland parties spoke of and the timber we are now interested in, must be 60 miles apart.

Senator PURCELL. And in answer to Senator Root's question you said that the first intimation you had of the matter—that is, of acquiring land in this way—came to you from a suggestion from Mr. Glavis. You heretofore testified or stated that this matter came to your knowledge through the transactions of Portland parties.

Mr. BARR. Mr. Glavis brought my attention to these descriptions which we now have that I filed protests on. He called this to my mind. I had often thought of getting such information, but I had never been successful.

Senator ROOT. Had you said anything to Glavis about it?

Mr. BARR. During the time I was figuring on it?

Senator ROOT. You say you often thought about it. Did you communicate your thoughts to Mr. Glavis?

Mr. BARR. No, sir.

Senator ROOT. The first thing that passed between you and Glavis in regard to this subject of getting land in this way was Glavis's suggestion to you; is that right?

Mr. BARR. Yes, sir; about the middle of November.

Senator ROOT. After that suggestion what was the first thing you did, or he did about it?

Mr. BARR. I think he called my attention to it from Vancouver that his could be had, or he thought it could.

Senator ROOT. What did you do?

Mr. BARR. Sent a man to see if it was any good.

Senator ROOT. Whom did you send?

Mr. BARR. Mr. Zindall.

Senator ROOT. When did you send him?

Mr. BARR. Why, I do not know; it was in the month of November some time.

Senator ROOT. How far was that from your place in Seattle?

Mr. BARR. Why, it is about 90 miles.

Senator ROOT. How long was he gone?

Mr. BARR. Three or four days, I think.

Senator ROOT. And he came back with a report?

Mr. BARR. Yes, sir.

Senator ROOT. Did he make a written report?

Mr. BARR. Yes, sir.

Senator ROOT. Where is it?

Mr. BARR. In my office.

Senator ROOT. Where?

Mr. BARR. In Seattle.

Senator ROOT. What is the next thing that you did?

Mr. BARR. I notified Mr. Moulten of the amount of scrip that I could require, told him to make the selection, and notified him to send in the nonmineral affidavits which I had Mr. Zindall prepare and take the regular steps to acquire the land.

Senator ROOT. What was the first step you actually took to acquire the land.

Senator PURCELL. That is a step, Senator, the filing.

Senator ROOT. He hasn't said he filed on any.

Mr. BARR. Just what I have said there.

Senator ROOT. What you said there was something that you said to Mr. Moulten.

Mr. BARR. To have Mr. Zindall make this nonmineral affidavit, which was made by Mr. Moulten's suggestion or instruction; he was acting as my attorney and also was agent for this scrip.

Senator ROOT. He did make the affidavit, did he?

Mr. BARR. Mr. Zindall did, yes, sir.

Senator ROOT. And I believe you stated that that selection was made by you on the 17th of November, or about that time?

Mr. BARR. I think that is the time, sir.

Senator ROOT. That is what you referred to, the making and filing of the affidavit?

Mr. BARR. Yes, sir.

Senator ROOT. And the filing of the protest on it.

Mr. BARR. Yes, sir.

Senator ROOT. Where are those papers filed?

Mr. BARR. In the Vancouver office.

Senator ROOT. Who filed them?

Mr. BARR. Mr. Moulten.

Senator ROOT. Did you have any communication with Glavis in the meantime after the report of your timber cruiser was received?

Mr. BARR. I think he was in the office. I told him the amount of the timber that was on there. Mr. Moulten was handling it then.

The CHAIRMAN. Mr. Barr, what was Mr. Glavis to do for the one-half he was to have of the profits; what was he to do?

Mr. BARR. I told him that we would—he wanted to know just how we would handle the matter, and I told him that anything more he could get we would handle in the same way.

The CHAIRMAN. Now, that did not answer my question. What work was Mr. Glavis to do for the one-half of the profits?

Mr. BARR. Why, he would look up the records of the Land Office and looking over those to see which appeared to be in conflict.

The CHAIRMAN. Wasn't he to follow up the matter through the Land Office so that you could defeat the State's selection?

Mr. BARR. I don't know what he was to do.

The CHAIRMAN. I ask you this question, if he was not to aid you in defeating the State's selection, so that you could get it?

Mr. BARR. That was the purpose; yes, sir.

The CHAIRMAN. That was the purpose?

Mr. BARR. Yes, sir.

The CHAIRMAN. He was to aid you in that work.

Mr. BARR. Yes, sir.

Senator ROOT. Don't you know what he was to do?

Mr. BARR. Yes, sir; but I am not familiar with the details in selecting those lands.

Senator ROOT. You know what you were going to give him one-half of the profits for, don't you?

Mr. BARR. For perfecting the title, getting title to the lands.

Senator ROOT. Was he to pay Mr. Moulten?

Mr. BARR. Mr. Moulten didn't make any charges; he was agent for the scrip.

Senator ROOT. He is not your attorney?

Mr. BARR. Yes; he is my attorney.

Senator ROOT. And he doesn't make any charge?

Mr. BARR. Mr. Moulten gets a commission, I think, from the railroad of so much an acre for placing his scrip and it covers his attorney's fee.

The CHAIRMAN. Before you could file a nonmineral affidavit, you had to file a protest, did you not?

Mr. BARR. No, sir.

The CHAIRMAN. Wasn't that the first step?

Mr. BARR. I don't know. I am not familiar with that. When we made the selection—

The CHAIRMAN. Did you file a protest?

Mr. BARR. The protest was filed, I presume, in my name by Mr. Moulten.

Senator PURCELL. Now, that calls for a hearing; there is to be a trial in the land office.

Mr. BARR. I don't know how that is handled there.

Senator PURCELL. You don't know how that is handled?

Mr. BARR. No, sir; I don't know how that is handled. I think the protest comes here to Washington to the General Land Office, and they pass on the merits of the case.

Senator PURCELL. There would be a trial as to whether the State of Washington is entitled to these lands?

Mr. BARR. Yes, sir; or whether the Government owns it.

Senator PURCELL. So that at the present time you have acquired nothing except that you have attempted to initiate a contest?

Mr. BARR. Yes, sir.

Senator PURCELL. Granting the right of the State of Washington to take this land?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. If you finally get title to the 520 acres—to one of the tracts on which you have filed——

Mr. BARR. The other 200 is right around it.

Senator PURCELL. If you finally get title to that 500-acre tract, how much profit do you estimate there will be?

Mr. BARR. It depends on how long I have got to carry it before I sell it.

Senator SUTHERLAND. You said it would be worth \$50 an acre now, if you had the title all right?

Mr. BARR. Yes, sir; I think so.

Senator SUTHERLAND. Suppose you were able to sell it at the present time for \$50 an acre how much profit would there be in that transaction?

Mr. BARR. There would be the difference between the selling price and the cost. Now there is 520 acres at \$8.25 an acre.

Senator SUTHERLAND. That is, there would be a profit of over \$40 an acre upon it?

Mr. BARR. Then there is the 200 acres——

Senator SUTHERLAND. I am confining your attention now to the 520 acres. Would there be a profit of over \$40 an acre on that?

Mr. BARR. I think so.

Senator SUTHERLAND. You think there would be?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. So that Mr. Glavis out of the transaction would receive a profit of \$20 an acre, or receive the amount of \$20 an acre?

Mr. BARR. Approximately so.

Senator PURCELL. Provided that you are successful.

Mr. BRANDEIS. Not counting interest?

Mr. BARR. Not counting interest.

Senator SUTHERLAND. Which would be \$10,000; that is correct?

Mr. BARR. Yes, sir; about that.

The CHAIRMAN. That would be better than a field examiner's position.

Senator PURCELL. The Land Office has to pass upon this question, does it not?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. Mr. Barr, the only thing Mr. Glavis was to do was to help secure title?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. He put no money into the venture?

Mr. BARR. No, sir.

Senator SUTHERLAND. He took no risk of that kind at all?

Mr. BARR. No, sir.

Senator SUTHERLAND. You put up all the money and you bore the risk of obtaining the title?

Mr. BARR. Yes, sir.

Senator SUTHERLAND. For this simple service in assisting you in obtaining the title he will receive about \$10,000 out of the transaction. Is that correct?

Mr. BARR. I was not able to go down there.

Senator SUTHERLAND. Oh, no; but is that correct?

Mr. BARR. Yes, sir; but there is more to that.

Mr. JAMES. Explain.

Senator FLINT. I want to get at the value of Mr. Glavis's services for which he will be paid practically \$10,000. Was that for his knowledge of the fact that certain land could be located?

Mr. BARR. Was for his knowledge of the General Land Office practice, which would enable him to go in there and find those things, which I could not do.

Senator FLINT. The benefit of his knowledge in knowing just what lands to locate?

Mr. BARR. Yes; in knowing how to proceed with the records.

Senator FLINT. Not only proceeding with the records, but proceeding to locate that particular piece of land.

Mr. BARR. That was the result of his investigations.

Senator FLINT. That is the value of Mr. Glavis's services to you, is it not?

Mr. BARR. Yes, sir.

Senator FLINT. So that you would be willing to do that with anyone who had knowledge of the land, who could go and locate and place this scrip upon them?

Mr. BARR. Yes, sir.

Senator FLINT. By reason of the fact that Mr. Glavis had been employed by the Government and had knowledge of all the conditions of the public lands of the United States was the value to you in this instance?

Mr. BARR. Not only Mr. Glavis. I would do it with anybody else.

Senator FLINT. Certainly you would. But the fact that Mr. Glavis had this knowledge was the reason you selected him?

Mr. BARR. I presume so.

Senator PURCELL. It is true, is it not, that before you or Mr. Glavis realize anything from this venture there must be a determination by the Land Department of the right first of the State of Washington to the original lands which it claimed to have lost; that is a fact, is it not?

Mr. BARR. I did not understand that.

Senator PURCELL. Read the question please.

(The stenographer read as follows:)

It is true, is it not, that before you or Mr. Glavis realize anything from this venture there must be a determination by the Land Department of the right first of the State of Washington to the original lands which it claimed to have lost; that is a fact, is it not?

Mr. BARR. Yes, sir.

Senator PURCELL. Now, in determining that it may go through the and office at Vancouver, from there to the Commissioner of the General Land Office, from there to the Secretary of the Interior, and from here to the Supreme Court of the United States, may it not?

Mr. BARR. Why, I presume that is the regular routine.

Senator PURCELL. Those are the usual steps?

Mr. BARR. I think so.

Senator PURCELL. Mr. Glavis's duty is to follow this land all the way through these different departments, is it not? Under your arrangement, is it not?

Mr. BARR. He is to look after it and get the title to it.

Senator PURCELL. Yes. Then, again, the other question is whether or not the State of Washington is entitled to indemnity for that land, and then the question as to whether it is entitled to these lands that are now in question here?

Mr. BARR. Yes, sir.

Senator PURCELL. And that question which you have just mentioned can also go through the different departments?

Mr. BARR. Yes, sir.

Senator PURCELL. And Mr. Glavis's duty is to follow it through those departments and aid you in securing a favorable decision, is it not?

Mr. BARR. Yes, sir.

Senator PURCELL. So that ultimately it may rest with the department, the Land Department, or with the Supreme Court of the United States before it can be determined?

Mr. BARR. I don't know whether it can get into the Supreme Court of the United States; I don't know anything about that.

Senator PURCELL. Well, it can.

Mr. MADISON. As I understand this situation, the title in any event has gone out of the United States Government?

Mr. BARR. No.

The CHAIRMAN. Oh, no.

Mr. MADISON. I wanted to find out. I am trying to get to the facts without taking anybody's side or anything of that kind, or bringing out any facts to discomfort anybody, but to know what the facts are. Now, as I understand, you say that this land is now claimed by the State of Washington. The State of Washington claims title to it, does it not?

Mr. BARR. Yes, sir; they have claimed title to it.

Mr. MADISON. Now, then, you claim that they have filed on this land claiming it as lieu land?

Mr. BARR. Indemnity selection.

Mr. MADISON. When, as a matter of fact, they have already received the lieu land?

Mr. BARR. No.

Mr. MADISON. It had not lost any lands?

Mr. BARR. It had not lost the lands that they are trying to reimburse themselves for by making indemnity selection.

Mr. MADISON. Now, then, the United States Government issued the Northern Pacific Railroad Company this scrip?

Mr. BARR. Yes, sir.

Mr. MADISON. Which when a person purchases and owns it, and he has the right to locate it on government land?

Mr. BARR. Yes, sir.

Mr. MADISON. The Congress of the United States has that sort of a law still in existence on its statute books, has it not?

Mr. BARR. Yes, sir.

Mr. MADISON. And that is what you are trying to proceed under?

Mr. BARR. Yes, sir.

Mr. MADISON. You are claiming now that as a matter of fact that land still belongs to the Government, and that you have a right, under the existing law, the right granted the Northern Pacific Railroad Company, to locate that scrip on that land?

Mr. BARR. Yes, sir.

Mr. MADISON. Are you proceeding, or is Glavis proceeding, in any other way except as authorized by the law of the land?

Mr. BARR. I do not think that he is.

Mr. MADISON. Is there anything that is being attempted to be done that is not in accordance with the laws which the Congress of the United States has placed upon the statute books and still permits to remain there?

Mr. BARR. No, sir.

The CHAIRMAN. Are there any other questions, Mr. Vertrees?

Mr. VERTREES. Mr. Barr, you have mentioned the fact that Mr. Glavis was to pursue this case through the various courts and before the various officers. Is it not a fact Mr. Glavis is not an attorney, and has never been admitted to practice before the Land Office?

Mr. BARR. I don't know; he is pretty well informed on land-office laws.

Mr. VERTREES. I didn't ask you as to his information, but as to his right to appear for anyone and present a case for anyone, don't you know he is not?

Mr. BARR. I had never thought of that.

Mr. VERTREES. Now that you have thought of it, don't you know that it is so?

Mr. BARR. Now that you remind me of it, I do.

Mr. VERTREES. I believe you stated Mr. Moulten was the attorney who was going to do everything necessary in a legal way, did you not?

Mr. BARR. Well, Moulten has filed a protest there in my name.

Mr. VERTREES. You have stated he was representing you in these matters, and you were not paying him anything.

Mr. BARR. I am not paying him anything directly any more than the commission he gets out of the scrip.

Mr. VERTREES. What attorney do you pay?

Mr. BARR. I am paying Mr. Glavis.

Mr. VERTREES. Is it not true that the decision of the Secretary of the Interior on all these land-contest cases is final, and that there can be no taking of the case to the United States Supreme Court?

Mr. BARR. No, sir; I am not familiar with that.

Mr. VERTREES. You don't know about that?

Mr. BARR. No, sir; I don't know anything about it.

The CHAIRMAN. The committee will take a recess until 2 o'clock.

(The committee thereupon took a recess until 2 p. m.)

AFTER RECESS.

The committee reassembled after recess, at 2 o'clock p. m.

The CHAIRMAN. The committee will please come to order. A quorum is present. Mr. Brandeis, have you any more testimony to offer?

Mr. BRANDEIS. Not to-day. I have more that I shall want to offer when Messrs. Birch and Steel appear.

The CHAIRMAN. Mr. Pinchot, are you ready to proceed?

Mr. PINCHOT. I am, sir. In accordance with—

The CHAIRMAN. Is your attorney here?

Mr. PINCHOT. My attorney is here. May I interrupt just one moment, Mr. Chairman? In accordance with the policy adopted in the case of Mr. Glavis, I believe my testimony will be more intelligible to the committee if the committee will allow me to make a statement of two or three moments before I am sworn as to what I expect to show, and in order to be as brief as possible I have written it out.

What I desire to lay before the committee is a consecutive story of my experience with Mr. Ballinger in relation to the conservation of natural resources. Among several other matters there are three of principal importance to be called to your attention.

The first of these concerns the policy, devised and inaugurated by the last administration, of protecting against monopolistic control the water-power sites owned by the people. I shall show you that Secretary Ballinger entered his office with the clear determination to make short work of that policy; that he reversed it so far as he was allowed to do so; that he restored the power sites to entry without the remotest idea of rewithdrawing them; and that, finally, when I charged him last autumn to the President with being an enemy of the policy of conservation he capped the climax by giving to the President himself an explanation of his conduct that was essentially false.

The second has to do with my connection as a government officer with the Cunningham coal cases and with the Glavis charges. I shall show you how the Forest Service became involved in these cases, and how Glavis submitted his facts to me. I believed then, as I believe now, that he told the truth. I am convinced now, as I was when he came to me, that Glavis is a faithful public servant, and that the facts which he presented prove that Mr. Ballinger has been unfaithful to his trust as a servant of the people and as the guardian of public property of enormous value.

I shall show you that since I learned the facts you have heard from Glavis and others, which I am about to lay before you, I have acted steadily in the light of them, as it was my duty, both as a public officer and as a citizen, to do. I shall show you that in pursuance of that duty I laid before the President, both by word of mouth and in a letter of November 4, a statement of my conviction that Secretary Ballinger has been a dangerous enemy to conservation. I shall show you that this letter was submitted by the President to Mr. Ballinger, and that as part of his reply he laid before the President a statement concerning the Cunningham coal cases, which statement is shown by indisputed documentary evidence to be absolutely false

in three essential particulars. It will then appear that Mr. Ballinger willfully deceived the President and was disloyal to him.

The third principal matter is concerned with the attitude of this Government in law and administrative practice toward the conservation of the natural resources belonging to the people. I desire to show you that the story of Glavis's courageous and successful fight to protect the property of the people, which ended in his dismissal without a hearing, is but a single chapter in the history of the public lands. I shall show you that under our present law and practice the more difficult task falls on those who would protect the public property, and not on those who would despoil it; and that under the present system the betrayal into monopolistic control of what belongs to all of us is made easy and monopoly often in practice inevitable.

The imperative duty before this country is not merely to get rid of an unfaithful and public servant. A far more important duty is to bring about a fundamental change in the law and the practice toward conservation, to prevent for the future what has been in the past, the useless sacrifice of the public welfare, and to make possible hereafter the utilization of the natural resources and the natural advantages for the benefit of all the people instead of merely for the profit of a few.

When this story has been told, and the witnesses whom I shall ask you to call have been heard, you will realize that the interests of the people are not safe in Mr. Ballinger's hands, and that the country will demand of this committee a verdict in harmony with the general conviction that the Secretary of the Interior has been unfaithful both to the public, whose property he has endangered, and to the President, whom he has deceived.

TESTIMONY OF GIFFORD PINCHOT.

GIFFORD PINCHOT, having been first duly sworn by the chairman, testified as follows:

Mr. PEPPER. With your permission, Mr. Chairman, I shall ask Mr. Pinchot the questions which will elicit his testimony.

The CHAIRMAN. Very well; you may sit down while you ask the questions, if you prefer.

Mr. PEPPER. Thank you, sir; I shall avail myself of your permission.

Mr. JAMES. Mr. Chairman, just a moment. Some lawyers have the practice—I know it is so in Kentucky—of generally standing up when questioning a witness. It sometimes puts them to a disadvantage to have this right denied them.

The CHAIRMAN. I am not used to it and it seemed odd to me.

Mr. JAMES. That is the point. I merely wanted to allow the lawyer to use his own judgment about that and suit his own convenience.

Mr. OLMSTED. The chairman said "if you prefer."

Mr. JAMES. I know; but the other part of it was rather that of an order.

Mr. PEPPER. Mr. Pinchot, what is your full name?

Mr. PINCHOT. Gifford Pinchot.

Mr. PEPPER. Your present residence?

Mr. PINCHOT. Washington, D. C.

Mr. PEPPER. Will you please state when you first entered the government service?

Mr. PINCHOT. My first employment under the Government was a semiofficial one as a member of the National Forest Commission, appointed by the National Academy of Sciences at the request of Secretary Hoke Smith in 1896, as I remember it.

Mr. PEPPER. And you were appointed Forester and Chief of the Division of Forestry, when?

Mr. PINCHOT. May I interrupt you, Mr. Pepper? I was then—my next employment under the Government was as special agent of the General Land Office under Secretary Bliss, to make an examination of certain of the national forests created by President Cleveland on February 22, 1897. After that I became chief of the whole division of forestry on July 1, 1898.

The CHAIRMAN. In the Interior Department?

Mr. PINCHOT. In the Agriculture Department.

The CHAIRMAN. Was it in the Agriculture Department at first?

Mr. PINCHOT. It was in the Agriculture Department.

Mr. PEPPER. Am I right in my recollection that a Commissioner of Forestry had been appointed as long ago as 1876?

Mr. PINCHOT. Dr. Franklin B. Huff.

Mr. PEPPER. Subsequently the work of the forestation became a division, did it not?

Mr. PINCHOT. I believe in 1882, though I am not certain of the date.

Mr. PEPPER. And the creation of national forests began about when?

Mr. PINCHOT. That was authorized by the act of March 3, 1891, the same act in which the timber-culture law was repealed, as I remember.

Mr. PEPPER. And thereafter the forest work became a bureau?

Mr. PINCHOT. It became a bureau in 1901.

Mr. PEPPER. And finally a service?

Mr. PINCHOT. It became a service upon the transfer of the care of the national forests, then called forest reserves, from the Interior Department to the Department of Agriculture February 1, 1905.

Mr. PEPPER. How has the Forest Service been built up?

Mr. PINCHOT. It has been built up from very small beginnings. In 1898, when I joined it, as I recall it, I made the eleventh member of the whole division, and we had an appropriation of \$28,520 a year. It began to grow almost at once. The next year we had an appropriation, as I recall, of \$40,000, and I believe the bill just recently passed the House carries an appropriation of a little over \$5,000,000.

Mr. PEPPER. Now, Mr. Pinchot, in addition to the official positions that you have just enumerated, were you or were you not a member of the so-called "Public Lands Commission?"

Mr. PINCHOT. I was.

Mr. PEPPER. What was that commission?

Mr. PINCHOT. That was a commission appointed by the President in 1903, as I recall it, for the purpose of making an examination of the public-land laws and their practice as affecting the public lands, and recommending changes in the law and the practice.

Mr. PEPPER. Was the Land Commissioner, the Commissioner of the General Land Office, a member ex officio of that commission?

Mr. PINCHOT. He was, and Governor Richards, at that time Commissioner of the General Land Office, was the first chairman of the commission.

Mr. PEPPER. When did Mr. Ballinger become Commissioner of the General Land Office, and as such a member ex officio of the commission?

Mr. PINCHOT. On March 4, 1907, as I remember it.

Mr. PEPPER. Will you be kind enough to state what questions, if any, were pending before the commission for consideration at that time.

Mr. PINCHOT. The commission had at that time made up partial reports dealing with timber lands, national forests, grazing lands, desert lands, the timber and stone act, the commutation clause of the homestead law, and had left as the important subject yet to be taken up the question of mineral lands.

Mr. PEPPER. And in the category of mineral lands did you include coal lands?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. What was the situation in the committee in respect to coal lands and their consideration at this time?

Mr. PINCHOT. Mr. Newell was the other member of the committee—there were but three—and he and I were very strongly of the opinion at that time—which Secretary Ballinger holds now, I understand—that the proper method of disposal of the public coal lands, or the public coal, rather, was under lease, the title to remain in the Government.

Mr. PEPPER. Did that involve also the conception of a separation of the surface from subjacent strata?

Mr. PINCHOT. It did.

Mr. PEPPER. What was done by the commission in the matter?

Mr. PINCHOT. Mr. Newell and I had one or more conferences—I recall one conference at which all three members of the old commission were present—with Mr. Ballinger, and another conference that I had with him separately, just he and I, and it developed from these conferences that his attitude toward the coal-land question was that sale was preferable to leasing. There was at that time much discussion in Congress over the question—a good deal of bitter discussion, as I remember it—and Mr. Newell and I came to the conclusion that a divided report would be worse than no report at all. Accordingly no further meetings of the commission were held.

Mr. PEPPER. Was that, by the way, one of the commissions which was ultimately affected by the so-called "Tawney amendment?"

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Coming along chronologically, Mr. Pinchot, to the events subsequent to March 4, 1907, what have you to say respecting the circumstances attending the creation of the Chugach National Forest in Alaska?

Mr. PINCHOT. The Chugach Forest was created in several pieces. There were three separate proclamations, as I recall, and there arose a dispute between the General Land Office and the Forest Service as to the creation of that forest. I believe at the time that the first proclamation was sent over to the Land Office, or shortly thereafter. Mr. Ballinger protested to Secretary Garfield against the creation of that forest, and I recall that there was held a conference in Secretary

Garfield's office between Secretary Garfield, Mr. Ballinger, I think Mr. Woodruff, though I am not sure, and myself, at which the whole question was gone over as to whether or not it was desirable to create that forest.

Mr. PEPPER. The forest was created.

Mr. PINCHOT. The forest was created in three movements, in three separate proclamations, the last of which, made I think in February, 1908—I am not sure—included the lands now covered by the Cunningham coal claims.

The CHAIRMAN. When was the first, Mr. Pinchot?

Mr. PINCHOT. The first was, I think, in July, 1907, Senator. The proclamations, I believe, are here and the dates can easily be verified.

Mr. PEPPER. The file, Mr. Chairman, has been produced at our call and I will offer it in evidence without reading it. It contains the dates and letter of protest referred to.

The CHAIRMAN. In all the three instances?

Mr. PEPPER. In all the three instances; yes, sir.

The CHAIRMAN. Very well, if no objection is made they will be received in evidence.

(The letters and proclamations are as follows:)

PROPOSED CHUGACH NATIONAL FOREST, ALASKA—REPORT AND DRAFT OF PROCLAMATION.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 24, 1907.

The honorable SECRETARY OF THE INTERIOR.

SIR: I have the honor to submit herewith, in duplicate, report on the proposed creation of the Chugach National Forest, in Alaska, as recommended by the Secretary of Agriculture under date of March 13, 1907.

The proposed national forest embraces all of the territory situated south of the main divide of the Chugach Mountains, which are located between Copper River and the west coast of Prince William Sound, and covers an approximate area of 858,268 acres of land, upon which are located the towns and settlements of Eyak, Orca, Tahltah, Ellamar, Valdez, Fort Lisicum, Einiklik, Chenaga, Nutchek, and Latouche, and certain reservations for military purposes. As these lands are unsurveyed, it is impossible to state the area claimed or held in private occupation, but it is known that quite a number of such claims exist, and it is also a fact that a number of transportation companies have taken steps to obtain rights of way through these lands, since they furnish the most feasible routes from the southern coast to the interior of Alaska. A number of islands in Prince William Sound which are to be included in this national forest are used for the propagation of foxes, and have been reserved from entry under the homestead laws.

As touching the question as to the advisability of this reservation, attention is called to the facts shown by the report of Mr. W. A. Langille, the forest officer who investigated the conditions at the suggestion of the Forester, that a national forest is not needed to conserve the water supply or for protection against forest fires; that the timber on these lands is neither plentiful nor valuable. Mr. Langille says:

"The relative amount of timber suitable for milling purposes is small in proportion to the forest area, and is generally in sheltered depressions away from the coast in such small bodies that logging would be expensive. Other than these select tracts the trees are short and limby, with rapid taper, offering but little inducement to the lumberman."

Again, it seems from Mr. Langille's report that the creation of the forest reserve is not greatly needed for reproduction of timber. He says:

"There is now a good growth of all ages in the forests, which will always sustain the present standard and perpetuate the species now existing."

The possible effect of a national forest upon the populating and development of the country should be considered. There are seven laws under which title can now be

obtained to lands in Alaska. The creation of a national forest will absolutely defeat sales under five of these laws, and will in effect defeat them under the sixth.

Mines are usually discovered and developed and fishing stations and Indian trading stations are frequently established in localities remote from centers of white population. Stores and other places of business are required in connection with these establishments, and lands are needed for these purposes and for homes for the operative. The conditions in Alaska are peculiar, and to meet the peculiar needs in that district Congress has devised and prescribed peculiar methods for obtaining title to the lands—methods not in use outside of Alaska, and suitable only to the local situation there. The act of May 14, 1898 (30 Stats., 413), authorizes the purchase of lands "for the purpose of trade and manufacture and other productive industry," and also authorizes the location of soldiers' additional rights and the purchase of lands for terminal facilities for transportation purposes. A peculiar method of town-site entry has been authorized and a separate method of allotting lands to Indians. The location of soldiers' additional homestead entries and the statute authorizing purchases for the purpose of trade and manufacture have been most largely utilized to meet existing needs. But the act which authorizes acquisition of title in this method, as well as the laws which permit town-site entries, the purchase of lands for terminal facilities and the allotment of lands to Indians, will be entirely defeated by the creation of the national forest. (See 34 L. D., 19.)

The creation of a national forest will greatly hamper and to a large extent defeat the provisions of the homestead laws, which Congress made exceedingly liberal to induce the settlement and development of the country.

If a national forest is created it will have the following effect upon existing homestead laws:

(a) Now any nonmineral land in Alaska is subject to homestead entry; then only lands chiefly valuable for agriculture can be entered, and it will in many localities be extremely difficult to find lands which are more valuable for agriculture than for timber.

(b) Now, under the liberal law which Congress has prescribed to induce settlement 320 acres of land may be entered; then only 160 acres can be entered.

(c) Now settlement can be made and homes maintained without entry; then no settlement can be made without entry.

(d) Now an entryman may wait five years after making his home before he makes entry; then he must make entry before he establishes his home.

(e) Now a settler can commute 160 acres after fourteen months' residence and cultivation; then he can not commute at all.

Again, the people now have a right to settle upon, make improvements upon, graze and use these lands for many other beneficial purposes necessary to the development and exploration of the country without the consent or sanction of any department of the Government, but many of these acts will, after the creation of a national forest, render them liable to arrest and punishment as trespassers.

Again, the creation of national forests is not favored by the people of Alaska, as is shown by Mr. Langille in his report on the proposed Panhandle national forest, when he says:

"Those who have given the matter consideration think the move premature and not consistent with existing isolated frontier conditions with which the sparse population is contending to build up enterprises and homes."

As to the advisability of creating the national forest now under consideration, Mr. Langille concludes his report with the suggestion that—

"While the amount of timber cut is comparatively small, and under the Alaska Code can be checked at any time, there are no provisions for forest care, and the writer strongly favors the passage of a law placing Alaskan forests under foresters with regulations for timber cutting without withdrawing the lands from settlement, especially in regions where the resources are entirely undeveloped and might be retarded by their reservation."

The legislation suggested by Mr. Langille has not been enacted, and since they are not needed for the conservation of the water supply or protection from forest fires, the sale of timber, the prevention of trespass, and the reproduction of forests is the only purpose to be served by the creation of national forests. The act of 1898, supra, makes ample provisions for the sale of timber by the Secretary of the Interior through methods closely akin to those now pursued for the sale of timber in national forests, and the shipping regulations, as well as the fact that Alaskan lumber can not be sold in competition with the mills in the Puget Sound country, seem a sufficient safeguard against the exportation of lumber from Alaska. That the mills of Alaska have not been able up to the present time to even supply the local demand is shown by the fact that the Government was recently compelled to import 750,000 feet of lumber.

needed by it for building purposes, and by the further fact that during the year ending June 30, 1903, the latest statistics now at my command show that \$692,814 worth of lumber and timber products were shipped into Alaska.

If it is believed that, notwithstanding the suggestions here made, the creation of his national forest in advance of the legislation suggested by Mr. Langille is advisable, I see no reason why the proclamation herewith submitted should not be issued, inasmuch as it appears to be in proper form.

Very respectfully,

R. A. BALLINGER,
Commissioner.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 10, 1907.

The honorable the SECRETARY OF THE INTERIOR.

SIR: There is herewith submitted a form of proclamation for the creation of the Chugach National Forest, Alaska. The proposed national forest contains approximately 858,268 acres, all of which is unsurveyed.

My views with respect to the propriety of the creation of this national forest were fully stated in a letter submitted to your department April 24, 1907.

The form of proclamation was prepared and approved by the Forest Service, Department of Agriculture.

Very respectfully,

R. A. BALLINGER,
Commissioner.

CHUGACH NATIONAL FOREST, ALASKA.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, the public lands in the Territory of Alaska, which are hereinafter indicated, are in part covered with timber, and it appears that the public good would be promoted by utilizing said lands as a National Forest;

Now, therefore, I, Theodore Roosevelt, President of the United States of America, by virtue of the power in me vested by section twenty-four of the act of Congress, approved March third, eighteen hundred and ninety-one, entitled, "An act to repeal timber-culture laws, and for other purposes," do proclaim that there are hereby reserved from settlement, entry, or sale, and set apart as a public reservation, for the use and benefit of the people, all the tracts of land, in the Territory of Alaska, shown as the Chugach National Forest on the diagram forming a part hereof, and further described as follows: All of the public land lying within a line beginning at the southern extremity of Cape Puget, Alaska, on the east coast of Kenai Peninsula; thence in a general northerly direction, following the coast line, to the western extremity of Portage Bay; thence northwesterly to the divide between Turnagain Arm and Portage Bay; thence in a general northerly direction along the divide between Knik Arm and Port Wells and in a general easterly direction along the main divide of the Chugach Mountains, continuing thence to a point on left bank of Copper River opposite the northern extremity of Cottonwood Island; thence southerly, down left bank of said Copper River, to its southern extremity; thence in a southwesterly direction to the southern extremity of Cape Clear; thence in a northwesterly direction to the southern extremity of Cape Puget, the place of beginning, and embracing all islands within said described line;

Excepting from the force and effect of this proclamation the several areas contained within boundaries formed by circles described with a radius of a mile each, from the centers of the following-named towns and settlements, to wit: Eyak, Orca, Tahtelahk, Ellamar, Valdez, Fort Lisicum, Einiklik, Chenaga, Nutchek, and Latouche:

Provided, That this proclamation shall not be so construed as to deprive any person of any valid right possessed under the treaty for the cession of the Russian possessions in North America to the United States, concluded at Washington on the thirtieth day of March, eighteen hundred and sixty-seven, or acquired under any act of Congress relating to the Territory of Alaska;

And further excepting from the force and effect of this proclamation all lands which are at this date embraced in any legal entry or covered by any lawful filing or selection

duly of record in the proper United States land office, or upon which any valid settlement has been made pursuant to law, if the statutory period within which to make entry or filing of record has not expired; and also excepting all lands which at this day are embraced within any withdrawal or reservation for any use or purpose with which this reservation for forest uses is inconsistent: Provided, That these exceptions shall not continue to apply to any particular tract of land unless the entryman, settler, or claimant continues to comply with the law under which the entry, filing, or settlement was made, or unless the reservation or withdrawal with which this reservation is inconsistent continues in force: not excepting from the force and effect of this proclamation, however, any part of the National Forest hereby established which may have been withdrawn to protect the coal therein, but this proclamation does not vacate any such coal-land withdrawal; and provided that these exceptions shall not apply to any land embraced in any selection, entry, or filing, which may have been permitted to remain of record subject to the creation of a permanent reservation.

Warning is hereby given to all persons not to make settlement upon any of the lands reserved by this proclamation, unless and until they are listed by the Secretary of Agriculture and opened to homestead settlement or entry by the Secretary of the Interior under the act of Congress, approved June eleventh, nineteen hundred and six, entitled, "An act to provide for the entry of agricultural lands within forest reserve."

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 23d day of July, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United States the one hundred and thirty-second.

[SEAL.]

THEODORE ROOSEVELT.

By the President:

ROBERT BACON,
Acting Secretary of State.

CHUGACH NATIONAL FOREST, ALASKA.

[Second proclamation.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, it appears that the public good would be promoted by excluding certain lands from the Chugach National Forest, in the Territory of Alaska, established by proclamation issued July twenty-third, nineteen hundred and seven;

Now, therefore, I, Theodore Roosevelt, President of the United States of America, by virtue of the power in me vested by the act of Congress, approved June fourth, eighteen hundred and ninety-seven, entitled, "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," do proclaim that the area of the said National Forest is hereby changed to exclude therefrom a tract of land extending one mile back from the tide line, on both sides of the bay known as Valdez Arm, following the tide line from its intersection with the line of $146^{\circ} 30'$ longitude west from Greenwich, easterly around the head of the Valdez Arm; and that the aforesaid National Forest now contains, with the exception of the lands hereby excluded, all of the tracts of land, in the Territory of Alaska, shown as the Chugach National Forest on the diagram forming a part hereof; and further described as follows: All of the public land lying within a line beginning at the southern extremity of Cape Puget, Alaska, on the east coast of Kenai Peninsula; thence in a general northerly direction, following the coast line, to the western extremity of Portage Bay; thence northwesterly to the divide between Turnagain Arm and Portage Bay; thence in a general northerly direction along the divide between Knik Arm and Port Wells; thence in a general easterly direction along the main divide of the Chugach Mountains, continuing thence to a point on left bank of Copper River opposite the northern extremity of Cottonwood Island; thence southerly, down left bank of said Copper River, to its southern extremity; thence in a southwesterly direction to the southern extremity of Cape Clear; thence in a northwesterly direction to the southern extremity of Cape Puget, the place of beginning, and embracing all islands within said described line, excepting from the force and effect of this proclamation the several areas contained

thin boundaries formed by circles described with a radius of a mile, each, from the centers of the following named towns and settlements, to wit: Eyak, Orca, Tahtetlahk, Iamar, Valdez, Fort Lisicum, Einiklik, Chenaga, Nutchek and Latouche:

Provided, that this proclamation shall not be so construed as to deprive any person any valid right possessed under the treaty for the cession of the Russian possessions North America to the United States, concluded at Washington on the thirtieth day March, eighteen hundred and sixty-seven, or acquired under any act of Congress relating to the Territory of Alaska;

And further excepting from the force and effect of this proclamation all lands which at this date embraced in any legal entry or covered by any lawful filing or selection of record in the proper United States Land Office, or upon which any valid settlement has been made pursuant to law, if the statutory period within which to make entry or filing of record has not expired; and also excepting all lands which at this date are embraced within any withdrawal or reservation for any use or purpose with which this reservation for forest uses is inconsistent: *Provided*, that these exceptions shall not continue to apply to any particular tract of land unless the entryman, settler, claimant continues to comply with the law under which the entry, filing, or settlement was made, or unless the reservation or withdrawal with which this reservation is inconsistent continues in force; not excepting from the force and effect of this proclamation, however, any part of the aforesaid National Forest which may have been withdrawn to protect the coal therein, but this proclamation does not vacate any such coal land withdrawal; and provided that these exceptions shall not apply to any land embraced in any selection, entry, or filing, which may have been permitted to remain of record subject to the creation of a permanent reservation.

The lands hereby excluded from the aforesaid National Forest which are not embraced in any other withdrawal, reservation, or appropriation, shall be restored to the public domain and become subject to settlement, appropriation, and disposition under the provisions, conditions, and restrictions applicable to such lands on this date and after such notice by publication as the Secretary of the Interior may prescribe, and no person will be permitted to gain or exercise any right whatever under any settlement or occupation begun prior to such date and all such settlements and occupations are hereby forbidden.

Warning is hereby given to all persons not to make settlement upon any of the lands covered by this proclamation, unless and until they are listed by the Secretary of Agriculture and opened to homestead settlement or entry by the Secretary of the Interior under the act of Congress, approved June eleventh, nineteen hundred and six, entitled, "An act to provide for the entry of agricultural lands within forest reserves:" *Provided*, that lands heretofore restored to settlement or entry under the provisions of the foregoing act shall be excepted from the force and effect of this proclamation.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 18th day of September, in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United States the one hundred and thirty-second.

THEODORE ROOSEVELT.

the President:

ALVEY A. ADEE,
Acting Secretary of State.

CHUGACH NATIONAL FOREST, ALASKA.

[Third proclamation.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, an executive order dated July second, nineteen hundred and eight, constituted the Chugach National Forest and the Afognak Forest and Fish Culture reserve under the name of the Chugach National Forest;

and whereas it appears that the public good would be promoted by adding to the Chugach National Forest certain lands within the Territory of Alaska, which are in part covered with timber;

Now, therefore, I, Theodore Roosevelt, President of the United States of America, in virtue of the power in me vested by the act of Congress, approved June fourth, nineteen hundred and ninety-seven, entitled "An act making appropriations for sun-

dry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," do proclaim that the Chugach National Forest is hereby enlarged and that its boundaries are as shown on the diagram forming a part hereof, and further described as follows: The island of Afognak and the adjacent islands which were set apart by proclamation dated December twenty-fourth, eighteen hundred and ninety-two, as the "Afognak Forest and Fish Culture Reserve," and also all of the public land lying within a line beginning at a point on the left bank of Copper River, due east of the northern extremity of Cottonwood Island; thence easterly along the divide between the watershed of Bremner River and Chitina River to a point due north of the southern extremity of Cape Suckling; thence due south to the southern extremity of Cape Suckling; thence in a northwesterly direction to the southern extremity of the left bank of Copper River; thence in a southwesterly direction to the southern extremity of Cape Clear; thence in a northwesterly direction to the southern extremity of Cape Puget; thence in a general northwesterly direction along the divide of the foothills to its intersection with the main divide of the Kenai Mountains; thence in a general westerly direction along said main divide, between the waters of Resurrection Bay and Kenai Lake, and continuing southwesterly along said main divide to the head of Sheep Creek; thence southerly down the left bank of said creek to Kachemak Bay; thence in a general southerly, westerly, and northerly direction along the shores of said bay, Cook Inlet, and Knik Arm, at the mean low tide line, to the right bank of Knik River; thence easterly up the right bank of Knik River to the main divide of the Chugach Mountains; thence in a general easterly direction along the main divide of the Chugach Mountains to a point on the left bank of Copper River, due east of the northern extremity of Cottonwood Island, the place of beginning, and embracing all islands within said described line;

Excepting from the force and effect of this proclamation the several areas contained within boundaries formed by circles described with a radius of a mile, each, from the centers of the following-named towns and settlements, to wit: Eyak, Orca, Tahtetah, Ellamar, Valdez, Fort Liscum, Einiklik, Chenaga, Nutchek, and Latouche; excepting also a tract of land extending one mile back from the tide line, on both sides of the bay known as Valdez Arm; following the tide line from its intersection with the line of 146° 30' longitude west from Greenwich, easterly around the head of Valdez Arm:

Provided, That this proclamation shall not be so construed as to deprive any person of any valid right possessed under the treaty for the cession of the Russian possessions in North America to the United States, concluded at Washington on the thirtieth day of March, eighteen hundred and sixty-seven, or acquired under any act of Congress relating to the Territory of Alaska.

The withdrawal made by this proclamation shall, as to all lands which are at this date legally appropriated under the public land laws or reserved for any public purpose, be subject to, and shall not interfere with or defeat legal rights under such appropriation, nor prevent the use for such public purpose of lands so reserved, so long as such appropriation is legally maintained or such reservation remains in force.

Since the withdrawal made by this proclamation for forest purposes and the withdrawal made by proclamation dated December twenty-four, eighteen hundred and ninety-two, for the purpose of establishing fish-culture stations and for the use of the United States Commissioner of Fish and Fisheries are consistent, both shall be effective upon the land withdrawn, but the withdrawal for fish-culture stations and for the use of the United States Commissioner of Fish and Fisheries shall be the dominant one.

This proclamation shall not prevent the settlement and entry of any lands heretofore opened to settlement and entry under the act of Congress approved June eleventh, nineteen hundred and six, entitled "An act to provide for the entry of agricultural lands within forest reserves."

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 23rd day of February, in the year of our Lord one thousand nine hundred and nine, and of the Independence of the

[SEAL.] United States the one hundred and thirty-third.

THEODORE ROOSEVELT.

By the President:

ROBERT BACON,
Secretary of State.

Mr. PEPPER. Mr. Pinchot, is my recollection correct that in January, 1908, the so-called "cooperative agreement" was entered into between the Department of the Interior and the Department of Agriculture respecting the timber and forests on Indian reservations?

Mr. PINCHOT. Yes.

Mr. PEPPER. Would you state briefly what that contract was?

Mr. PINCHOT. That contract was an agreement between Secretary Arfield and Secretary Wilson, in accordance with which, roughly, the Forest Service was to take charge of the forests on Indian reservations upon the general lines laid down by the Interior Department; that is, the general lines of policy were to be laid down by the Interior Department, as I recall it, and the actual control and handling of the forests was to be carried out by the Forest Service within those general lines of policy.

Mr. PEPPER. Mr. Chairman, in response to our call the contract, or carbon thereof, has been produced, and with your permission I will refer that in evidence without reading it.

The CHAIRMAN. That will be received. You mean the agreement between the two departments?

Mr. PEPPER. Yes, sir; the contract, styled the cooperative agreement between the two departments, which appears on the third, fourth, and sixth pages of this document.

(The agreement is as follows:)

AN AGREEMENT FOR COOPERATION BETWEEN THE INDIAN OFFICE AND THE FOREST SERVICE.

PURPOSE.

Under the conditions herein defined the Forest Service will undertake:

1. The sale of timber and the supervision of logging on Indian reservations, under methods which will improve the forest and yield the full market value of all timber cut.
2. The protection of all forests on Indian reservations, whether they are now being cut over or not.
3. A study of the forests on Indian reservations to determine the best permanent use of the lands upon which they grow; and where these are more valuable for forest purposes than for any other, the preparation and application of plans for their management.

CONDITIONS.

If the Forest Service undertakes this work it will be necessary:

1. That the salaries and expenses of all men actually employed to carry out this cooperative agreement and all necessary expenses for equipment and supplies shall be borne by the Indian Office.
2. That all men so employed and all those already employed in forest work on Indian reservations shall constitute a part of the force of the Forest Service, responsible directly and only thereto.
3. That in the employment of Indian labor, in keeping liquor away from the Indians, and in other essential ways the Forest Service will apply in its administration of forest matters the policies of the Indian Office for the welfare of the Indians; but all work in the woods under policies agreed upon by the Indian Office and the Forest Service shall be planned, initiated, and conducted wholly by officers of the Forest Service.

GENERAL PLAN.

In carrying out the proposed agreement, the Forest Service will work along these main lines:

1. *Organization.*—In handling Indian forest lands, the Forest Service will conform to the policy, standards, organization, and methods of similar work upon national forests. So far as possible the forests on Indian reservations will be put under the charge of forest officers who administer neighboring national forests. Where this is

impossible, as in Minnesota, Wisconsin, and Michigan, the Forest Service will assist other officers to the work. All phases of forest work on Indian reservations will be thoroughly inspected by the inspectors of the Forest Service now organized in six districts in the West for the inspection of national forests.

2. *Personnel.*—The men now employed in forest work on Indian reservations will be retained so far as they prove efficient. Those who prove inefficient will be replaced as soon as their inefficiency is determined. The force will be increased by the appointment of trained men of civil-service standing; only in the case of Indians employed for patrol purposes and temporary employees will unclassified employees be appointed.

3. *Cost.*—A close estimate of the cost of the work is impossible until more is known regarding the extent of forest lands in Indian reservations and the volume of the business upon them. It is probable that these lands can be protected and plans prepared for their management at not to exceed three-fifths of a cent per acre annually. Estimating the total area of forest lands within Indian reservations at 15,000,000 acres, this would make a total annual cost of \$90,000. The annual cost of the supervision of logging, including the scaling, will probably not exceed 10 per cent on any Indian reservation, and will usually not exceed 5 per cent of its total annual returns from the sale of timber.

4. *When work can begin.*—Should this cooperative agreement be approved, the Forest Service will undertake the supervision of logging now going on upon Indian reservations as soon as the necessary funds can be made available. For those forest lands within Indian reservations upon which logging is not in progress the Forest Service will at once determine the size and distribution of the force needed to protect them. It is believed that the protecting force can be organized and at work by the beginning of the next fire season. Studies to determine the character of Indian forest lands and the best methods for their future management will be organized and pushed as rapidly as possible.

Approved, January —, 1908.

JAMES WILSON,
Secretary of Agriculture

Approved, January 22, 1908.

JAMES RUDOLPH GARFIELD,
Secretary of the Interior

Mr. PEPPER. Mr. Pinchot, that contract remained in force until what time?

Mr. PINCHOT. It was abrogated in June or July, 1909.

Mr. PEPPER. It was abrogated in the early summer of 1909?

Mr. PINCHOT. In the early summer of 1909.

Mr. PEPPER. Will you recur to that matter in your testimony when we reach that point in chronological sequence?

Mr. PINCHOT. I should like to go into it considerably more at length then.

Mr. PEPPER. Passing it for the moment, I will ask you to state whether or not in February, 1908, the Commission on Inland Waterways made its report?

Mr. PINCHOT. That was a commission appointed by the President in March of the previous year; it reported on February 3, 1908. It was the occasion of President Roosevelt's first complete statement that there was a conservation problem as a whole.

Mr. PEPPER. I hand you what purports to be a copy of a preliminary report of this commission, and ask you whether that is the report to which you refer?

Mr. PINCHOT. This is the report.

Mr. PEPPER. And will you turn to any particular portion of that report which you wish to emphasize particularly?

Mr. PINCHOT. I should like to read a couple of paragraphs dealing with the report of this commission as to power. At the time that we made this report neither of us knew that President Roosevelt in 1903 and Governor La Follette in 1905 had written veto messages empha-

zing the necessity for the protection of water power in the public interest.

Mr. PEPPER. When you say "neither of us" you refer to the members of the commission?

Mr. PINCHOT. To the members of the Inland Waterways Commission.

Mr. PEPPER. Of which I understand you were a member?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. And the chairman was who?

Mr. PINCHOT. The gentleman who is now Senator Burton, of Ohio. He was a Representative then. This paragraph is as follows:

The facts ascertained in certain specific cases furnish a basis for the claim that the due of the power—

That is, of the water power—

Would pay the cost of all engineering and other works required in such cases to control the streams for navigation and other uses. In the light of recent progress in electrical application it is clear that over wide areas the appropriation of water power offers an unequalled opportunity for monopolistic control of industries. Wherever water is now or will hereafter become the chief source of power the monopolization of electricity produced from running streams involves monopoly of power for the transportation of freight and passengers, for manufacturing, and for supplying light, heat, and other domestic, agricultural, and municipal necessities to such an extent that unless regulated it will entail monopolistic control of the daily life of our people to an unprecedented degree. There is here presented an urgent need for prompt and vigorous action by state and federal governments.

Mr. PEPPER. In point of time when does that document come in the series of official documents that have called attention to the danger of monopolistic control of power in the public domain?

Mr. PINCHOT. It comes immediately before the declaration of principles adopted by the great meeting of governors and great national associations held at President Roosevelt's invitation in the White House in May of the same year.

Mr. PEPPER. As I recall it, Mr. Ballinger ceased to be Commissioner of the General Land Office on March 4, 1908. Is that correct?

Mr. PINCHOT. I believe that to be correct.

Mr. PEPPER. Then in May the meeting to which you have last referred was convened, the meeting of the governors.

Mr. PINCHOT. The meeting of the governors was on May 13, 14, and 15, 1908.

Mr. PEPPER. What action, if any, was taken there respecting the approval or disapproval of the conservation policy?

Mr. PINCHOT. The strongest statement, with perhaps one exception, that has ever been written in favor of the conservation of natural resources—I think perhaps the strongest—was prepared and unanimously adopted and signed, not only by all the governors who were then present, and there were about 40 of them present, but by all the governors who were in office at the time the meeting was held.

Mr. PEPPER. Mr. Chairman, at this point, in chronological sequence, could come a letter from the then Secretary of the Interior, Hon. James A. Garfield, to the director of the Reclamation Service, calling for information respecting the power sites in the public domain. We have called for the production of that letter, but owing to some oversight, no doubt, the letter itself has not been produced. With your permission, I will offer in evidence a copy, subject to the production of the original hereafter for verification.

THE CHAIRMAN. If there is no objection, it will be admitted.

THE ATTORNEY-GENERAL.

SECRETARY'S OFFICE, DEPARTMENT OF THE INTERIOR.

Washington, D. C., June 2, 1908.

DEAR SIR: During the summer I desire that you have made a careful examination of the conditions of the Reclamation Service to the end that every possible simplification and improvement in business methods may be adopted. You have before you the various suggestions made by the special agents of the department who have been studying the general aspects of business methods, and the administrative committee will cooperate with you in putting into effect any changes that may be found desirable.

I wish you to give the Commissioner of the General Land Office such assistance as may be desired in the examination of which he is making of all selections that have been made under the Carey Act and of all grants that have been made by the Federal Government of power or water rights of way for irrigation or power purposes. I desire to have the fullest possible information by next November on both of these subjects. Any information that you may have or may obtain during the summer you will please give to the Commissioner of the General Land Office.

I have directed the Assistant Attorney-General to confer with you regarding definite method of procedure in handling appeals of contractors from the decisions of the chief engineer or yourself in the final settlement of contracts. My impression is that it will be wise to require the contractor making the appeal to file with me a written statement covering every point, this statement to be submitted to the chief engineer for his comment or answer, and that no oral hearing will be granted until the Secretary has considered the written appeal and determined whether a hearing on any of the special points raised be advisable. Furthermore, I wish you to consider with the Assistant Attorney-General what questions should be subject to appeal. It seems to me that the appeals should be limited to questions involving the interpretation of the contract, or charges attacking the integrity of officers of the service, eliminating questions of pure engineering or technical skill. I, of course, do not desire to prevent a contractor from presenting any legitimate claim, but I have found from experience that there is serious difficulty in attempting to deal with a general appeal.

I desire your field officers to note carefully the results under the field regulations approved by the Civil Service Commission, and to suggest any modifications that may be necessary. On each project the engineer in charge must report promptly the appointments and changes in his service, so that there may be no misunderstanding between the Civil Service Commission and the department.

I wish you to give to the General Land Office, in addition to the information I have referred to regarding water rights and reservoir sites, all the information you can obtain regarding the possible power sites on locations not hitherto filed up to the end that, if proper and necessary, withdrawals may be made.

Very respectfully,

JAMES RUDOLPH GARFIELD.

Secretary.

THE DIRECTOR OF THE RECLAMATION SERVICE.

MR. PEPPER. Was there on June 8, 1908, any further step in the matter of forwarding the policy of conservation resulting from the meeting of governors to which you have referred?

MR. PINCHOT. There came at that time the appointment of the National Conservation Commission, of which Senator Nelson was chairman of the land section.

MR. PEPPER. Were you a member of that commission?

MR. PINCHOT. I was chairman of it.

MR. PEPPER. Mr. Pinchot, what, if anything, did you do during the summer of 1908 in the way of investigating or studying the problem of the power sites in the public domain and their conservation?

MR. PINCHOT. I had become much impressed with the danger that those sites would pass out of the public hands unless something was done to protect them, and I had seen that in the national forests, the lands of which are open to appropriation under the mineral-land law.

possession was being taken of these available power sites as placer claims, or as lode claims, or as building-stone claims, and I determined, so far as in me lay, to try and stop that. Accordingly, I sent one of the members of the forest service from Washington, I believe in the late summer or early fall of the year, out to the West, to communicate with the local officers of the Forest Service, and directed them through him to recommend for withdrawal as administrative sites for ranger stations one piece of land in each of the power sites that they could find. The land so withdrawn under the practice then in effect was not subject to mineral entry.

Mr. PEPPER. These examinations made by the representatives of the Forest Service then, as I understand it, were made with a view to the withdrawal by the Executive of so much of the land examined as was believed to include power sites; is that correct?

Mr. PINCHOT. They were made with the idea of withdrawing one piece of land in each power site, so that there would be at least a little of the land which could not be taken possession of without the consent of the Government. In other words, the idea was to reserve a key to the development of each power site, which key could not be taken fraudulently or otherwise under the mineral land-laws or any other laws. So that when power came to be developed from that site the Government would have some say as to what should be done.

Mr. PEPPER. Were those withdrawals actually made?

Mr. PINCHOT. They were.

Mr. PEPPER. In accordance with what form or preexisting practice were they made?

Mr. PINCHOT. They were made on the regular form used for ranger station withdrawals—for the administrative site withdrawals.

Mr. PEPPER. Who finally made the withdrawals?

Mr. PINCHOT. The Secretary of the Interior.

Mr. PEPPER. Did he do that after conference with you alone, or conference with others; and if so, with whom?

Mr. PINCHOT. The plan was adopted and carried out after very full conference with the Secretary of the Interior—at that time Mr. Garfield—with Secretary Wilson, and with President Roosevelt, so that exactly what was being done in the way of withdrawal of this power was known to, and approved by, all three of them.

Senator FLINT. Were the sites you have referred to as being withdrawn—were all those on the forest reserves?

Mr. PINCHOT. All those were on the forest reserves.

Mr. PEPPER. Mr. Pinchot, what is a ranger station?

Mr. PINCHOT. A ranger station is a tract of land from 100 to 160—and sometimes as much as 200—acres, withdrawn in a national forest, or near it, as headquarters for a ranger. The idea is to have land upon which a cabin can be built and a barn—some place, if possible, where he can have a garden, and, above all, a pasture—so that the ranger can maintain his horses and have a place to live. It is just as necessary that there should be ranger stations in the forest as that there should be rangers.

Mr. PEPPER. As I understand it, then, you utilized the ranger station withdrawal form for the purpose of preserving or conserving temporarily a key to the water-power sites within the limits of the national forest?

Mr. PINCHOT. We did; and we did that because at the time it was supposed that that was the only form that the withdrawals could take. Later on it developed that the withdrawals could be made directly for water-power purposes, and before March 4, 1909, all the ranger-station withdrawals were converted into regular water-power withdrawals.

Mr. PEPPER. Mr. Chairman, at this point I offer in evidence the letter from the then Secretary of the Interior to the Commissioner of the General Land Office, which appears on page 576 of Senate Document No. 248.

The CHAIRMAN. It is already in evidence. The whole book is in evidence.

Mr. PEPPER. Thank you, sir. I call attention to this letter, which as you remind me is already in evidence, and will ask Mr. Pinchot to look at it and tell us whether that is the document to which he has just referred.

Mr. PINCHOT. That is my understanding.

The CHAIRMAN. Will it not be sufficient to refer to the page without printing it over again?

Mr. PEPPER. I hope it will be printed, as it is very short. It is not more than ten lines. It may be convenient when we come to the discussion of the legalities of this matter.

The CHAIRMAN. You had better have it read.

(The letter referred to is as follows:)

DEPARTMENT OF THE INTERIOR, *March 2, 1909.*

DEAR SIR: I attach a list of lands containing sites more valuable for reservoir and power purposes under the various right-of-way laws than for disposal under any of the other public-land laws now applicable thereto. You are directed to instruct registers and receivers of the respective land districts in which these lands are situated that they are hereby withdrawn from disposal under any of the public-land laws except the various right-of-way acts.

This withdrawal is made under the general supervisory authority of the Executive in order to make certain that these lands shall not be acquired wrongfully under other laws than the right-of-way acts, thus defeating the purpose of Congress, and also to give Congress opportunity to so amend or modify the public-land laws that these particular lands may be devoted to their best use.

Very respectfully,

JAMES RUDOLPH GARFIELD,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

Mr. PEPPER. At several points in the course of Mr. Pinchot's testimony come places at which it will be necessary hereafter to supplement his testimony by the testimony of others. With your permission, I will read at this point for insertion in the record a brief statement of what, in proper sequence, I propose to prove by such supplementary witnesses. I propose, in the first place, to prove by Hon. James R. Garfield:

That on December 4, 1908, and on subsequent dates, prior to March 4, 1909, the Secretary of the Interior made withdrawals of lands of an aggregate acreage of 1,834,521 acres, which were believed to contain water-power sites available for future use in connection with reclamation projects under the act of 1902.

Mr. PEPPER. I understand you have no detailed or technical familiarity with the withdrawal to which that last offer of proof refers.

Mr. PINCHOT. I have not.

Mr. PEPPER. I will, then, Mr. Chairman, make this additional offer of proof by Mr. Garfield:

That on January 18, 1909, and upon subsequent dates, prior to March 4, 1909, the Secretary of the Interior made, under the supervisory power of the President, withdrawals of land of an aggregate acreage of 1,615,940 acres, which lands were believed to contain power sites of great value to the people of the United States; that all these withdrawals, as well as those described in offer of proof No. 1, were made by the boundaries shown on the land office map (either by townships or sections) and averaged about a mile on either side of the river; that in view of the insufficiency and inaccuracy of existing maps this leeway was necessary in order to be reasonably sure to include the desired power sites; that such boundaries necessarily included a large acreage of land already entered and therefore not legally affected by such withdrawal, and also some land which might not be needed for conservation of power sites, but most of which was not likely to be wanted by anyone for other purposes; and that the plan under which these withdrawals were made was gradually to reduce the withdrawn area by proper restorations as data for more accurate location should become available.

The CHAIRMAN. You expect subsequently to offer those orders?

Mr. PEPPER. I expect by the then Secretary of the Interior, Mr. Garfield, to prove so much as lies in oral testimony, by him as a witness in conjunction with his testimony, and offer the records themselves which his testimony will explain.

Mr. Pinchot, you have described a meeting of governors and the appointment of the conservation commission, and you have come in order of time to the beginning of the year 1909. Have you anything to say with respect to another conservation conference that took place at that time?

Mr. PINCHOT. Yes, sir; there was a meeting—one meeting of the National Conservation Commission, beginning in the first part of December, which formulated a report. That report was submitted to a second conference of governors held in Washington in the early part of December—one of the days was December 8, and I have forgotten whether that was the first or second day—which conference, consisting of the governors of state conservation commissions, of which there were then nearly forty, and the conservation commission of the great national association, of which there were then nearly fifty of such commission—all their representatives united in a report on conservation, which was then presented to the President and transmitted to Congress. Following that there came the First International Conservation Congress—a congress including merely the nations of North America. I had been sent in December and January to Canada and Mexico to carry a personal invitation from the President to the Governor-General and to the President of Mexico, that those nations should take part in this conference, which was actually held in Washington in February, 1909.

Mr. PEPPER. And what action did that conference or commission take?

Mr. PINCHOT. It adopted a statement of principles which took very advanced ground indeed in favor of the protection of the natural resources for the people and the prevention of monopoly.

Mr. PEPPER. I hand you a pamphlet which purports to be a declaration of principles adopted by that conference, and I ask you whether that is what it purports to be?

Mr. PINCHOT. It is.

Mr. PEPPER. You will refer particularly to the declaration of principles respecting water power.

Mr. PINCHOT. On page 4 I find the following:

We regard the monopoly of waters, and especially the monopoly of water power, as peculiarly threatening. No rights to the use of water powers in streams should hereafter be granted in perpetuity. Each grant should be conditioned upon prompt development, continued beneficial use, and the payment of proper compensation to the public for the rights enjoyed, and should be for a definite period only. Such period should be no longer than is required for reasonable safety of investment. The public authority should retain the right to readjust at stated periods the compensation to the public and to regulate the rates charged, to the end that undue profit or extortion may be prevented.

Mr. PEPPER. This, as I understand it, is the conference of representatives of North American governments only?

Mr. PINCHOT. It included Canada, Mexico, and Newfoundland.

Mr. PEPPER. Was any action taken by that conference looking to a conference representing a still wider area?

Mr. PINCHOT. The result was adopted by that conference, inviting the President of the United States to extend an invitation to the different nations of the world to meet together for a conference on conservation.

Mr. PEPPER. Thereafter, on March 4, Mr. Taft became President and Mr. Ballinger Secretary of the Interior. What utterances, if any, on the subject of conservation were made at or before this time by Mr. Taft?

Mr. PINCHOT. There was a reference to conservation in his inaugural speech, and he had made, as I remember, a number of previous references to the subject. There was one in particular in the speech that he made at Chicago in the previous October, during the campaign, which I think is probably the best statement that he has made on the subject.

Mr. PEPPER. Will you refer to this speech or address that you have mentioned, and emphasize any part of it that you desire to emphasize?

Mr. PINCHOT. This speech was delivered at the Auditorium Theater, in Chicago, and he said, among other things:

Conservation is the use of intelligent common sense and ordinary business foresight in dealing with our natural resources, which are the foundations of our prosperity.

Ten years ago conservation was unheard of, and we gloried in what we were pleased to call our unlimited and inexhaustible natural resources. During this year 1908, following the suggestion of the great conference of governors held at the White House last May, we have begun to take stock of these resources. Most of us are now ready to face the issue courageously as our forefathers faced the untrodden wilderness and begin to conserve the natural sources of our prosperity. As a people, we have the problem of making our forests outlast this generation, our iron outlast this century, and our coal the next; not merely as a matter of convenience or comfort, but as a matter of stern natural necessity.

At the conference of governors some of the ways in which we may conserve our coal, iron, and timber were suggested. The most promising means proposed was the cause which has brought together the development of water transportation on the Mississippi and the other inland waterways of the country. So the great object for which we are here, inland navigation, one of the greatest objects that ever inspired a convention or awakened a nation, is necessary not only for the sake of the vast benefits which it will confer directly on all the consumers of transported merchandise as already described, but as equally necessary as one of the central features of the great policy of conservation, on which our whole future depends.

Senator SUTHERLAND. What is the date of that?

Mr. PINCHOT. In October; I do not know which day in October, 1908—the 7th, 8th, and 9th. I think it was on the first day of the meeting, but I am not sure.

Mr. PEPPER. Mr. Pinchot, you have now traced step by step the development or growth of the conservation policies during 1908 and the first part of the year 1909. Thinking of the status of the movement as of March 4, 1909, can you summarize in a single sentence the point of development that had then been reached?

Mr. PINCHOT. The movement had grown from practically nothing; from a series of disjointed efforts of different gentlemen, such as for forestry, irrigation, etc.—more than a year before—until it was, as I thought, and as I think still, perhaps the most powerful movement then traversing the minds of the American people, and we had reached, as the result of a great deal of effort—as the result of making the first inventory of natural resources ever prepared in any nation, and studying the whole question—we had reached the point when we were all ready for action. In other words, the foundation for a great progress in conservation had been laid and we were ready to go ahead with it.

Mr. PEPPER. Now, after March 4, 1909, will you please state what action, if any, Secretary Ballinger took with reference to the conservation movement?

Mr. PINCHOT. The rivers, the central item at that time of the policy of protection of waterways, and through the lands that had been withdrawn for the protection of power, opened to private appropriation.

Mr. PEPPER. At this point, Mr. Chairman, I wish to make the following offer of proof; I offer to prove by Messrs. Davis and Newell, as follows:

1. That early in March, 1907, Secretary Ballinger announced to them as director and chief engineer, respectively, of the Reclamation Service, his intention to restore all withdrawn power sites to entry on the expressed ground that all such withdrawals were illegal, and that he did not disclose any intention to rewithdraw them.

2. That Mr. Newell protested against this course, explained the policy of the preceding administration, and urged its continuance, and Mr. Davis did not in any way recommend the change.

3. That prior to March 30, 1909, Secretary Ballinger specifically ordered the Reclamation Service officers to recommend to him the restoration to entry of all lands which had been withdrawn to protect water-power sites, and that on that date and on subsequent dates, Mr. Davis, in obedience to the Secretary's order, submitted such recommendations to him, using for this purpose a printed form long in use, applicable to restorations made after actual investigation had shown withdrawals, or parts thereof, to be unnecessary.

4. That the Secretary knew that no such investigation had been made in any of these cases, and without any investigation whatever restored to entry, between March 30 and April 16, all the power sites in 14 large tracts; thus directly reversing the action of his predecessor.

5. That thereafter, on or about April 23, Secretary Ballinger informed Mr. Davis that the President had been talking with him; that he then read to Mr. Davis an order directing the Reclamation Service to make field examinations upon the basis of which to recommend rewithdrawals; that as a result of a suggestion made by Mr. Davis concerning funds available to meet the expense this letter was redirected to the Geological Survey.

6. That on the same day Mr. Davis called Secretary Ballinger's attention to the fact that he had not as yet restored all the withdrawals made by Secretary Garfield and asked Secretary Ballinger what he should do about them. Secretary Ballinger told him not to restore any more.

Mr. Chairman, I offer in evidence or, perhaps bearing in mind your correction a few minutes ago—I call attention to the letter of March 30, 1909, from A. P. Davis, Acting Director of the Reclamation Service, to the Secretary of the Interior, which appears on page 556 of Senate Document No. 248. This has relation to the restoration to

entry of the Salmon River, Idaho, withdrawal. With your permission I would suggest the inscription at this point in the notes of the opening paragraph of the letter, but not the reproduction of the description of the lands themselves.

The CHAIRMAN. Down to the words "Salmon River, Idaho."

Mr. PEPPER. Yes, sir; down to and including the words "Salmon River, Idaho." I think it will make it easier when we come to read the testimony to have that appear to-day.

The CHAIRMAN. That will be inserted. The remainder of the whole letter is already in evidence.

Mr. PEPPER. Yes, sir; the whole letter is already in evidence, including the technical description of the land withdrawn.

The CHAIRMAN. That paragraph will be inserted.

The paragraph is as follows:

MARCH 30, 1909.

The SECRETARY OF THE INTERIOR.

(Through the Commissioner of the General Land Office.)

SIR: From recent investigations in connection with power sites, the withdrawal of the following-described lands, withdrawn under the supervisory power of the Secretary February 17, 1909, no longer appears necessary to the interests of the United States.

It is therefore respectfully recommended that so much of said departmental order as relates to the areas hereafter listed be vacated, and that such tracts not otherwise withdrawn, reserved, or appropriated be restored to the public domain.

As this withdrawal has been of such short duration and has probably not come to general public notice, it is further recommended that the usual notice by publication limiting the time for settlement and entry be waived.

SALMON RIVER, IDAHO.

Mr. PEPPER. I may say for the information of the committee that a tabulated statement of restorations or original withdrawals of restorations, etc., appears on page 86 of Senate Document No. 248. Mr. Pinchot, the offers of proof that I made a few minutes ago in respect to Mr. Garfield's withdrawal refers to the so-called "reclamation withdrawals," the so-called "general power sites withdrawals." Please state whether or not the restorations that you referred to a minute ago occurred in both classes of cases or only one of them.

Mr. PINCHOT. My understanding is that they occurred in both these classes.

The CHAIRMAN. Both in the reclamation branch of it and in the forestry power site?

Mr. PINCHOT. In the power site; that is my understanding.

Mr. PEPPER. Please state whether or not prior to March 4, 1909, the so-called "ranger stations," or "administrative site" withdrawal had all been converted into general power site withdrawals.

Mr. PINCHOT. They all had, according to my understanding, by a letter or under the direction of Secretary Garfield bearing date of March 2.

Mr. PEPPER. The one that was referred to a while ago?

Mr. PINCHOT. Yes, sir; the one referred to a while ago.

Mr. PEPPER. So that the ranger station reservation, so far as it relates to water power, is not involved in the present consideration?

Mr. PINCHOT. Not in any way. That has been disposed of.

Mr. PEPPER. But after March 4 the restorations did take place, both in connection with water-power withdrawals under reclamation

projects and in connection with water-power withdrawals under the general supervisory power?

Mr. PINCHOT. That is my understanding.

Mr. PEPPER. Do you find in the record anything which shows that these two classes of cases were treated differently by Mr. Ballinger? I mean as respects his theory of their legality or illegality.

Mr. PINCHOT. Not as far as I recall.

Mr. PEPPER. Will you take Senate Document No. 248 and turn to page 86 and give for the information of the committee a chronological statement of the reclamation restorations? They come, as you notice, in Table 2.

Mr. PINCHOT. In Table 2, and in the second column of Table 2 is given the date. I think that the one at the bottom of the list, "Green River, Utah," comes first.

Mr. PEPPER. That is part of the Green River withdrawals?

Mr. PINCHOT. Which was restored on March 20.

Mr. PEPPER. It is the first restoration appearing in the list after March 4?

Mr. PINCHOT. After March 4. The second one was the Yellowstone and tributaries, of Montana, March 27.

Mr. PEPPER. And that, likewise, was a restoration of a part of a withdrawal?

Mr. PINCHOT. A part of a withdrawal. The third—

Mr. PEPPER. Pardon me. Are you able to state, and if you are not I know you will say so, whether those two withdrawals were really recommended by the Reclamation Service, as distinguished from being specifically directed by the Secretary of the Interior?

Mr. PINCHOT. My information—but I have no personal knowledge on the subject—is that those were two recommendations made by the Reclamation Service without the orders of the Secretary of the Interior.

Mr. PEPPER. That is to say, that was in pursuit of the preexisting policy; to pare down the original large withdrawals.

Mr. PINCHOT. There was nothing unusual. Those two were in the course of the regular routine. There was nothing unusual about that.

Senator ROOT. Which two are those?

The CHAIRMAN. That is the Yellowstone and Green River, I understand.

Mr. PEPPER. Yes, sir; the partial restoration of March 20 in the case of Green River and the partial restoration of March 27 in the case of the Yellowstone are those last described by the witness.

The CHAIRMAN. Green River appears in April in this schedule.

Mr. PEPPER. It was made the subject of two restorations; but I am dealing only with the former of the two. I hear a member of the committee make a reference to Salmon River withdrawals. Let me explain that that restoration of March 30, which I am going to speak of again in a moment, was not a reclamation withdrawal, but a general power-site restoration, and comes in another list. I am dealing now with the reclamation restoration. After March 27, Mr. Pinchot, do you find a restoration on April 6?

Mr. PINCHOT. The North Platte River, Wyoming.

Mr. PEPPER. And still another on April 6?

Mr. PINCHOT. The Big Horn River, in Wyoming.

Mr. PEPPER. And in you find one on April 7?

Mr. PINCHOT. I find on April 7 "Yellowstone and its tributaries," and the second withdrawal of that, and the Colorado River, Utah—three, and the Big Horn River, Montana.

Mr. PEPPER. Do you find any restoration on April 10?

Mr. PINCHOT. Grand River, Utah.

Mr. PEPPER. And on April 15?

Mr. PINCHOT. April 15, Green River, Utah.

Mr. PEPPER. That was the residue of the original withdrawal?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Not restored on March 20, but finally on April 16?

Mr. PINCHOT. The third restoration of the Yellowstone and its tributaries, on April 16.

Senator FLETCHER. What do you mean by restoration?

Mr. PINCHOT. This land had been withdrawn, so that they could not be entered, and then they were restored to entry by the action of the Secretary of the Interior, so that they could be appropriated.

The CHAIRMAN. The order of withdrawal was revoked?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. Do you mean that they were withdrawn from settlement?

Mr. PINCHOT. They were withdrawn from settlement of any kind.

Mr. MADISON. And afterwards restored to the public domain, so that they could be settled upon?

Mr. PINCHOT. Or taken under scrip in any way. They were open to private appropriation.

Senator SUTHERLAND. Let me interrupt you there, Mr. Pepper.

Mr. PEPPER. Certainly.

Senator SUTHERLAND. Do I understand you, Mr. Pinchot, that all these lands were withdrawn for power site purposes?

Mr. PINCHOT. My understanding is that the majority of these—yes, sir; all of these—were withdrawn for power site purposes. Some of them were withdrawn for power site purposes in connection with the reclamation projects.

Senator SUTHERLAND. Now, take Green River. It appears to be 298,240 acres. I should not have thought that that vast body of land was necessary to be withdrawn for power site purposes.

Mr. PINCHOT. I am not familiar with the details of that.

Senator SUTHERLAND. You are familiar with the topography of the country?

Mr. PINCHOT. In a general way only.

Senator SUTHERLAND. It is a flat country, is it not?

Mr. PINCHOT. I have never been along the Green River that I can recall.

Senator SUTHERLAND. Have you been along the Rio Grande and Western Railroad that crosses Green River?

Mr. PINCHOT. Yes, sir. Does it cross Green River in Colorado?

Senator SUTHERLAND. It crosses Green River in Utah.

Mr. PINCHOT. I do not remember the details.

Mr. PEPPER. May I say to you, Senator Sutherland, that the detail of this matter, and specific information in regard to it, is covered by the offers of proof heretofore made, applicable to the testimony of

Mr. Garfield and of Messrs. Davis and Newell. They will be prepared with maps and information to answer all questions and details.

Senator SUTHERLAND. I wanted, if I could, to get from Mr. Pinchot what he means by it, because it is somewhat startling to me to be informed that a vast body of land like that could be necessary, in my view of the situation, for power site purposes.

Mr. PINCHOT. Senator, I am not familiar with the detail of it, and was not concerned with the detail at the time, the matter being entirely in the charge of some one else, I was informed, and have since reason to believe that those withdrawals were made largely because they were made from the land-office maps from which the actual location of streams was not definitely known, and therefore they were made big enough to include the streams with certainty, with the intention of proceeding at once to reduce them as rapidly as further information showed just exactly what was needed. They intended also—if you will allow me for a moment—they included areas of land on which were valid claims, and this 298,000 acres may or may not include a very considerable body of land which had already passed into private ownership but which was counted in the acreage merely because it happened to lie within the exterior boundaries of the withdrawals. But, as Mr. Pepper says, the details of that are in some one else's knowledge.

Senator SUTHERLAND. You are not familiar with the topography of the country?

Mr. PINCHOT. I am not.

Mr. OLMSTED. If I will not interrupt you, I would like to ask a question with reference to a little footnote at the bottom of page 86, as follows:

All lands along this river of value for power purposes were in private ownership at the time of the original withdrawal.

That appears at the bottom of page 86. It seems to refer to the 271,000 acres on the Big Horn River, Wyoming.

Mr. PEPPER. Yes, sir.

Mr. OLMSTED. I would like to ask Mr. Pinchot what he knows about that. I do not know who made the footnote there.

Mr. PEPPER. Perhaps I can answer briefly in this way: That table is an exhibit to a very full report on this subject made by the Director of the Geological Survey, and we have no disposition to dispute the facts therein stated, that it was afterwards ascertained that the land covered by that original withdrawal had all passed into private ownership.

Mr. OLMSTED. And perhaps not known at the time of withdrawal?

Mr. PEPPER. Certainly not known, or, of course, the withdrawal would not be made.

Senator ROOT. Mr. Pepper, is there not a misleading printing of the dates in the first column on the bottom of this page in the figures 1909? It would come in as if the days and months afterwards were in that year. Is that right?

Mr. PEPPER. Yes, sir; all in that second column.

Senator ROOT. In the first column, under the heading 1908, and under that are two entries both December 4 and December 29, and under 1909 are those subsequent withdrawals—the 1909 withdrawals.

Mr. PEPPER. They are all 1909 withdrawals except, I think, that of December 31, which should have been just the last item in 1908.

Senator ROOT. Yes; otherwise it would appear to have been restored before it was withdrawn.

Mr. PEPPER. Yes, sir; it is evidently a mistake in the tabulation.

Mr. Pinchot, you have already referred to the restorations of March 20 and March 27 as the restorations of some of the land withdrawn under the reclamation act. Are those instances of restoration of land found not to be necessary for the purposes of the original withdrawal?

Mr. PINCHOT. My understanding is that they are.

Mr. PEPPER. Now, recurring again to page 556—

Senator FLINT. May I interrupt you to ask this question? Did I understand you to say, in regard to that letter on page 556, that you would offer to show that these withdrawals were made, this recommendation was made, under instructions from Secretary Ballinger?

Mr. PEPPER. Yes, sir. The offer of proof is specific to the effect that the directions to recommend restoration were given by the Secretary of the Interior to the officers of the service; that they used printed forms applicable to cases where investigations showed—following Senator Sutherland's inquiry—that the original withdrawal was no longer necessary or ought to be pared down, but in point of fact they were made without any new or recent investigation, and that was known to all concerned.

The CHAIRMAN. So that I may understand you, Mr. Pepper: As I understand it, there are two cases there in the list at the bottom of page 86. These Yellowstone, Montana, and Green River reservations—they were presumably made on the recommendations of the Reclamation Service, without instructions?

Mr. PEPPER. Yes, sir.

The CHAIRMAN. And do you claim as to the balance on that list that the restorations were made without really their recommendations, except as directed by the Secretary?

Mr. PEPPER. I am informed, sir, that if the officers of the Reclamation Service are called, in response to my request, they will so testify.

The CHAIRMAN. Very well; I just wanted to locate myself.

Mr. PEPPER. Yes, sir.

The CHAIRMAN. You have not referred to any of the lands at the top of the list?

Mr. PEPPER. No, sir. I am trying to mark a distinction between the reclamation withdrawals and restorations, and the general power-site withdrawals.

Senator SUTHERLAND. Do you claim that the restoration of the lands formerly withdrawn on Green River, Utah, was without the concurrence of the Reclamation Service?

Mr. PEPPER. Senator, I have made the offer of proof in the full belief that the witnesses, if called, will testify as set forth in the offer of proof. I am sure you will understand that there is a limit beyond which a counsel can not go in predicting what witnesses will say.

Senator SUTHERLAND. Quite true. But we want to understand what your offer was.

Mr. PEPPER. Yes; the offer of proof is specifically to that effect.

I will ask you, Mr. Pinchot, this specific question, whether the restorations that have been referred to, excepting those of March 20

and March 27, are covered by your offer of proof—that these purport to be made on the recommendation of the Reclamation Service, based on recent investigations, but that they were in fact ordered by the Secretary of the Interior without any such investigation?

Mr. PINCHOT. That is true, in my judgment.

Mr. PEPPER. They are covered by that offer of proof?

Mr. PINCHOT. They are covered by that offer of proof. That is not my personal knowledge, but the offer of proof.

Mr. PEPPER. Then, turning back to page 556 of Senate document, and referring to the letter of March 30, 1909, I ask you whether that is the first of the restorations of the general power-site withdrawals that had previously been made?

Mr. PINCHOT. I so understand it.

The CHAIRMAN. Do you mean that is the order of withdrawals?

Mr. PINCHOT. My understanding is that that is the first of the recommendations made by the Reclamation Service, at the order of the Secretary of the Interior, and not of their own volition.

Mr. PEPPER. And having relation, not to the reclamation projects, but to the withdrawals theretofore made under the general power-site withdrawals?

Mr. PINCHOT. Precisely so.

Mr. PEPPER. In other words—refer to page 86 again—is the letter on page 556, the letter which referred to Salmon River, Idaho, withdrawal and restoration, which appears in the table referred to in the upper part of that page—

Mr. PINCHOT. It is the last item before the first total in that table.

Mr. PEPPER. In other words, it appears from that table that there had been a withdrawal on February 17, 1909, of lands along the Salmon River, Idaho, and these are the lands that were restored on March 30, in the way which you have explained, and the others followed in the sequence therein set forth.

The CHAIRMAN. I understand that table there, Mr. Pepper. There were 65,700 acres that were not restored; that is, where the withdrawal was not revoked. Is that correct; is that what that table means? I refer to the second column.

Mr. PEPPER. I understand that the gentleman who will follow will interpret it authoritatively, but my understanding is that what it means is this: The original withdrawal took place on February 17, 1909; that the restoration of March 30 was a restoration of the whole acreage of the original withdrawal; that thereafter an interview took place between Mr. Pinchot and the President about it, and thereafter rewithdrawals began, of which the item to which you call attention was one.

The CHAIRMAN. The 65,700 acres?

Mr. PEPPER. Yes. Now, Mr. Pinchot, I will ask you to look at a letter of April 1, 1909, appearing on page 557 of the Senate Document 248, from Mr. Ballinger to Mr. Newell, which reads as follows [reading]:

DEPARTMENT OF THE INTERIOR,
Washington, April 1, 1909.

SIR: It appears from orders heretofore issued, dated, respectively, January 7, 18, and February 27, 1909, that approximately 677,000 acres of public lands were withdrawn from all forms of entry, with a view to the conservation of water resources, in the States of Montana, Utah, and Oregon.

You will please report to me the reasons, if any there are, whether statutory or otherwise, why these lands should not be restored to entry under the public-land laws.

Very respectfully,

R. A. BALLINGER,
Secretary.

Hon. F. H. NEWELL,
Director U. S. Reclamation Service.

I will ask you whether in the record you find any answer to that letter?

Mr. PINCHOT. There is an answer to that letter, my understanding is, at the foot of the record under date of April 10.

The CHAIRMAN. What page is that?

Mr. PINCHOT. It is the last thing in the record, Senator, in the supplement.

Mr. PEPPER. Just one of the two or three documents included in the supplementary communication of the President to the Senate, including matters not originally included in Senate Document 248.

The CHAIRMAN. It is the letter at the last part of that?

Mr. GRAHAM. Page 2 of that supplement.

Mr. PEPPER. It is a letter dated April 10, 1909, and it appears there. If it is more convenient to consult it there, it appears on page 127 of the list.

Now, then, Mr. Pinchot, reminding you of that letter of April 1. asking for a statement of the reasons, if any, that the Reclamation Service had why there should not be certain restorations, then to the letter of April 10 which contained an answer to it, will you state what happened in the interval between the writing of the letter of April 1 and the receipt of the answer of April 10?

Mr. PINCHOT. My recollection is that during that time either one or two of the bodies of land referred to in the letter of April 1 were restored to entry without awaiting the answer.

The CHAIRMAN. One or two of the tracts?

Mr. PINCHOT. One or two of the tracts; I do not know whether it was one or two.

The CHAIRMAN. Do you know what those were?

Mr. PEPPER. I was going to ask him about that. I was going to ask him if he would turn to page 86 and look at the table at the top of the page and state whether there was on April 7 a restoration to entry of the Missouri River, Montana, withdrawal.

Mr. PINCHOT. April 7, yes; as I understand it.

Mr. PEPPER. Now let us see definitely our understanding about it.

The CHAIRMAN. That appears on April 10 in this book.

Mr. PEPPER. Probably the chairman is thinking of the Missouri river tributaries, the Jefferson, Madison, and Beaver Head rivers, which are a little later.

The CHAIRMAN. Yes.

Mr. PEPPER. That April 7 restoration in the case of the Missouri River, Montana, was originally withdrawn when, according to that table?

Mr. PINCHOT. January 18.

Mr. PEPPER. Now turning back to page 556.

Mr. PINCHOT. Five hundred and fifty-eight.

Mr. PEPPER. Five hundred and fifty-seven. State whether or not one of the inquiries therein made relates to the withdrawal of January 18?

Mr. PINCHOT. The second one does.

Mr. GRAHAM. From the top?

Mr. PEPPER. In the letter on page 557, sir.

Mr. PINCHOT. Right here, Senator.

Mr. PEPPER. At the foot of the page. Am I right, Mr. Pinchot, in understanding that that January 7 date given in the letter on page 557 is the date of the original recommendation of the withdrawal, and that the approval of the withdrawal which made it operative was January 18?

Mr. PINCHOT. That is my understanding, and by turning the leaf over you will find it.

Mr. PEPPER. I think that will appear, Mr. Chairman, when we offer in evidence the official documents.

I will take the liberty of stating, sir, as I am going to offer the file presently, that January 7, 1909, the date recommended for the original withdrawal, but that the approval of the recommendation that made it operative appears at the foot of the page as being January 18; so, obviously, that is the date referred to in that letter.

So, then, Mr. Pinchot, on April 7 the Secretary restored to entry one of the withdrawals covered by the inquiry of April 1, namely, the Missouri River, Montana, without waiting for an answer to that inquiry; is that correct?

Mr. PINCHOT. That is correct.

Mr. PEPPER. And on April 10 did he make any restorations of areas as to which no inquiry had been made in the letter of April 1, namely, the Missouri tributaries and the Flathead River?

Mr. PINCHOT. They appear in the table on page 86.

Mr. PEPPER. I offer in evidence, Mr. Chairman, a letter of April 7, from Secretary Ballinger to Senator Carter, which is one of the documents which is included in the file produced in response to our call.

The CHAIRMAN. Is it a copy or the original?

Mr. PEPPER. I take it to be a copy. It comes in a Department of the Interior backing.

The CHAIRMAN. Very well, we will admit it. We have been admitting such copy.

Mr. PEPPER. It is one of those in the custody of the clerk.

I have just questioned you about the restoration to entry of the Missouri River tributaries. I now ask you to read that letter. Mr. Chairman, with your permission I will say a word to Mr. Vertrees. I am not taking the time to submit those to you first, Mr. Vertrees. If it is your pleasure—

Mr. VERTREES. If I wish to object, I will do so.

Mr. PINCHOT (reading):

DEPARTMENT OF THE INTERIOR,
Washington, April 7, 1909.

HON. THOS. H. CARTER,
United States Senate.

SIR: Your letter of March 31 has been received, transmitting copy of resolutions adopted by the Madison Club of Virginia City, Mont., protesting against the withdrawal from entry of lands along the Jefferson, Madison, and Beaverhead rivers and their tributaries in Madison County, Mont.

The lands in question were withdrawn from all forms of entry on February 16, 1909, preliminary to an examination for power sites in connection with the possible future development of the water possibilities for irrigation or other uses.

The restoration to the public domain of the lands involved has been ordered.

Very respectfully,

R. A. BALLINGER, *Secretary.*

The CHAIRMAN. What was the date of that letter?

Mr. PINCHOT. April 7.

Mr. PEPPER. Now, then, turning again to page 86, state, please, when the restoration appears to have been made.

Mr. PINCHOT. On April 10.

Mr. PEPPER. Three days later? The restoration was made on April 10?

Mr. PINCHOT. On April 10, is my understanding.

Mr. PEPPER. Now, then, the recommendation of that restoration will appear, Mr. Pinchot, if you will look at page 561 of Senate documents—what is the date of the so-called recommendation of the Reclamation Service?

Mr. PINCHOT. April 7.

Mr. PEPPER. And looking at the foot of the document, what is the date?

Mr. PINCHOT. April 10.

Mr. PEPPER. And then recurring again to the letter of Senator Carter, will you read once more the Secretary's statement of facts?

Mr. PINCHOT (reading):

The restoration to the public domain of the lands involved has been ordered.

Mr. MADISON. What is the date of that letter?

Mr. PEPPER. April 7.

Now, then, I offer in evidence, Mr. Chairman, the letter of April 8 from Mr. Ballinger to one Will, which appears on page 23 of the Land Office file.

Senator SUTHERLAND. If you would first give us the page——

Mr. PEPPER. Following the chairman's suggestion, I am trying to observe the distinction between calling attention to documents that are in evidence in the Senate documents and offering in evidence documents which have been produced in response to a call and are not in the Senate documents.

Senator SUTHERLAND. My suggestion is that whenever you refer to this record, if you will first give us the page, and then describe the document, it will assist us in referring to them.

Mr. PEPPER. Yes; I will do so. What I am now referring to is not in the Senate documents.

Mr. GRAHAM. When you offer a document you mean it is not in the Senate documents?

Mr. PEPPER. Yes, sir.

The CHAIRMAN. Give the date of it.

Mr. PEPPER. I offer in evidence this letter of April 8 from the Secretary of the Interior to Mr. Thomas E. Will.

The CHAIRMAN. Is this one of the five coming from the Agricultural Department?

Mr. PEPPER. From the Department of the Interior. I will ask you, Mr. Pinchot, to read his letter of the 7th to the Secretary, and the Secretary's letter of the 8th in reply. Read both those letters, please.

Mr. PINCHOT (reading):

CONSERVATION, OFFICIAL MAGAZINE OF THE
AMERICAN FORESTRY ASSOCIATION,
Washington, D. C., April 9, 1909.

HON. RICHARD A. BALLINGER,
Secretary of the Interior, Washington, D. C.

DEAR SIR: I have noticed several statements in the papers of late, one of which I inclose, regarding restoration of sections of the public domain withdrawn by President Roosevelt.

Will you kindly furnish me the facts, together with such information as may be appropriate regarding these restorations, that I may make mention of the matter in the magazine, Conservation?

Very truly, yours,

THOS. E. WILL.

Mr. PEPPER. What reply is made by the Secretary?

Mr. PINCHOT (reading):

DEPARTMENT OF THE INTERIOR,
Washington, April 8, 1909.

SIR: The lands which you refer to as having been restored to entry in your letter of the 7th instant were withdrawn under what was denominated as the supervisory authority of the Secretary, in connection with future development, upon the report of the Acting Director of the Reclamation Service. The restoration was made likewise upon the report of the acting director on the ground that recent investigations showed that said withdrawal no longer appeared necessary to the interests of the United States.

Very respectfully,

R. A. BALLINGER, Secretary.

Mr. THOMAS E. WILL,
1417 G street NW., Washington, D. C.

Mr. PEPPER. Now, I offer in evidence the letter of the Secretary to Hon. C. N. Pray.

The CHAIRMAN. You offered those two letters in evidence, did you, Mr. Pepper?

Mr. PEPPER. Yes, sir.

The CHAIRMAN. They are admitted.

Mr. PEPPER. I offer in evidence the letter from the Secretary to the Hon. Charles N. Pray, April 10, 1909, and ask you to read that, Mr. Pinchot.

Mr. PINCHOT (reading):

DEPARTMENT OF THE INTERIOR,
Washington, April 10, 1909.

HON. CHARLES N. PRAY,
House of Representatives.

SIR: Your letter of April 2, 1909, has been received, transmitting a resolution from the Madison Club of Virginia City, Mont., protesting against the withdrawal from entry of lands along the Jefferson, Madison, and Beaverhead rivers and their tributaries in Montana.

The lands in question were withdrawn from all forms of entry on February 16, 1909, preliminary to an examination of power sites in connection with the possible future development of water-power possibilities for irrigation or other uses, but as the withdrawal appears to be no longer necessary to the interests of the United States, the lands will be restored at an early date.

Very respectfully,

R. A. BALLINGER, Secretary.

The CHAIRMAN. The letter just read is admitted in evidence.

Mr. PEPPER. Mr. Pinchot, I ask whether or not these letters to Mr. Pray and Will are covered by your offer to prove that there had been no such recent investigations as are therein referred to?

Mr. PINCHOT. They are.

Mr. PEPPER. I offer in evidence the letter, the copy of the letter sent by the Secretary of the Interior to Mr. Pattison in response to a reference to the Secretary from the President of a letter from Pattison to the President, under date of May 14, 1909. Will you first, Mr. Pinchot, read the letter to the President, then the Secretary's reply on the President's reference?

Mr. PINCHOT (reading):

LAW OFFICE OF EVERETT W. PATTISON,
Rialto Building, St. Louis, May 14, 1909.

To the PRESIDENT:

SIR: I trust I am not guilty of an impropriety in expressing regret at the apparent inclination of your Secretary of the Interior to undo some of the excellent work of your predecessor. After considerable hesitation, I have concluded to write you on the subject, because of my belief that there is no little uneasiness in the minds of many of your well-wishers in this part of the country by reason of what the Secretary has done. I refer especially to his order of last month throwing open to entry lands which your predecessor had withdrawn because of the water rights connected with them.

Very respectfully,

EVERETT W. PATTISON.

Mr. PINCHOT. The next letter is dated May 18, 1909 [reading]:

DEPARTMENT OF THE INTERIOR,
Washington, May 18, 1909.

MY DEAR MR. PRESIDENT: I herewith transmit to you a copy of my letter to Mr. Pattison, which I have written him in response to your request.

Very respectfully,

R. A. BALLINGER, *Secretary.*

Hon. WM. H. TAFT.

Mr. PINCHOT. The next letter is dated May 18, 1909 [reading]:

DEPARTMENT OF THE INTERIOR,
Washington, May 18, 1909.

MY DEAR MR. PATTISON: Your letter of the 14th instant, addressed to the President, has been referred to me.

Your opinion respecting the throwing open to entry of lands to the disadvantage of the conservation of water-power sites has been based upon misinformation. I am thoroughly in accord with the purpose of conserving and disposing of, through new legislation, such available water-power sites as are still under the control of the Government, and in order to secure the necessary information to enable the President to present the matter intelligently to Congress at its next session, I have directed the Geological Survey to make careful investigation and furnish me data, as is shown in the order, a copy of which I herewith inclose.

As to restoration affecting water-power sites which have been made by me, they affect certain blanket withdrawals which were made without any previous or detailed knowledge of available water-power sites. They cover a very large area of enterable agricultural lands, and were withdrawn through the Reclamation Service with no funds available for further investigation in that service. This accounts for the restoration and the direction to the Geological Survey, which is equipped with the means of securing the information desired. Pending the acquisition of such information, no patents will be issued or entries accepted which will place the Government at a disadvantage in the disposition of these valuable properties, in so far as they exist.

Considerable misinformation has been given out to the effect that the department under my management has made other restorations, which is without any foundation whatever.

I am heartily in accord with the conservation of the public utilities in the West, in so far as they can be feasibly conserved and developed along the lines recommended by the last administration. My intimate knowledge of western conditions through many years of residence in different parts of the country, I hope, will enable me to handle these affairs in the interest not only of the West, but for the entire country.

I remain, yours, very respectfully,

R. A. BALLINGER, *Secretary.*

Mr. EVERETT W. PATTISON,
Rialto Building, St. Louis, Mo.

The CHAIRMAN. Those letters are admitted in evidence.

Mr. PEPPER. Mr. Pinchot, the letter before this batch which I offered in evidence was a letter of April 10. This letter bears date in May. Will you state what, if anything, occurred in the interval, referring particularly to your interview with the President, of which I spoke a moment ago.

Mr. PINCHOT. On or about April 5, I returned to the headquarters here in Washington from a trip in the West, and at that time I learned that the water-power restorations had been made. On April 19—as near as I can fix the date, and I am quite confident that is the date—I called upon the President and said to him—

Mr. VERTREES. Just wait a moment, please. Mr. Chairman, just here I should like to interpose an objection in the nature of a suggestion. If I understand it, Mr. Pinchot is about to speak of a conversation with the President. Now, it occurs to me that it would put the President in a rather embarrassing attitude for any witness on either side to speak of a conversation with the President. Of course, any communication to the President in writing or any communication from the President I think it would be eminently proper to present here in the way of evidence. But to permit any witness to come here and make a statement as to a conversation with the President puts him in the attitude where he has either to remain silent or appear before this committee, which is a very undesirable thing. So, upon the ground of public policy purely, without regard to the nature of his conversation, I suggest by way of objection that no witness on either side be permitted to speak of conversations with or verbal communications from the President.

Mr. PEPPER. Mr. Chairman, I am heartily in accord with the spirit that prompted Mr. Vertrees to make the suggestion, but my duty to this committee requires that I should interrogate the witness respecting all the facts in this transaction, irrespective of who the parties are between whom the matters stated occurred. I, of course, shall defer to the ruling of the committee in the matter, but I shall press for a decision of the committee as to whether a conversation with the President on a matter immediately germane to this inquiry is or is not within the privileged matter which should not be divulged.

The CHAIRMAN. The Chair will submit the matter to the committee, whether the witness will be allowed to state his conversation with the President.

Mr. GRAHAM. Let me inquire of Mr. Pepper, is it claimed that any knowledge of the substance of this conversation was afterwards communicated to Mr. Ballinger, or did this conversation with the President rest there?

Mr. PEPPER. Mr. Chairman, answering the question of the member of the committee, I will state that in the correspondence, which must be a necessary part of the case hereafter, there is a reference to this interview in a letter from Mr. Pinchot to the President and a statement by the President in reply in which the President expresses his recollection as being in certain parts different from that of Mr. Pinchot, and it is because that question must necessarily make its appearance in the orderly development of the case that I have asked the question that we have now reached.

Mr. MADISON. What do you want to prove by this witness, by this fact?

Mr. PEPPER. I simply want to prove, Judge Madison, that on the date specified Mr. Pinchot went to the President—of course, I must guard myself very carefully not to state that which is a matter under objection—he went to the President—

Mr. MADISON. That might be true as to a jury, but it can not be true as to us.

Mr. PEPPER. I want to guard it until the committee has ruled: I would feel that I was guilty of an impropriety if I did not. He went to the President and had a certain conversation with him touching the water-power restorations; that thereafter a second interview between Mr. Pinchot and the President took place in which the President stated to Mr. Pinchot certain actions which had been taken in the interval.

Senator SUTHERLAND. It is a matter of some consequence and is likely to come up again, and I suggest that, if Mr. Pepper can do so, he pass to something else and let us take this matter up in executive session.

The CHAIRMAN. Could you go on with some other branch of the case and skip this, and afterwards the committee will determine this case.

Mr. PEPPER. Of course I can, sir. I think it will very much break up the orderly development of the case, however. I do not know whether you have reached the point where you could break off the hearing to advantage and enable us to take up the question at the point when the committee has maturely decided it. I think it will save time in the end, because I have tried rigidly to observe a chronological order in the interests of clearness.

Mr. GRAHAM. Would it disarrange your plans to offer at this time the written communications which you say deal with this matter in part?

Mr. PEPPER. Yes; because those are communications leading up to Mr. Pinchot's dismissal late in the autumn of 1909, and it simply makes chaos of the whole thing unless we stick to the chronological presentation of our case.

Senator FLINT. This brings up a direct conflict between what Mr. Pinchot will testify to and the statement that the President does not agree with him in the letter.

Mr. PEPPER. I do not want to be understood as saying that there was that. There is in one of Mr. Pinchot's subsequent letters to the President a reference to this subsequent conversation, in which Mr. Pinchot referred to certain statements which it is his recollection the President made, and the President in his reply says something to the effect that "My recollection is not wholly in accordance, or precisely in accordance, with yours," or something of that sort. But the matter is important, and I think Mr. Pinchot, subject to the ruling of the committee, is entitled to the benefit of his recollection of the matter.

Senator ROOT. Mr. Pepper, I should think that we should have before us, before we pass on this question, those letters which refer to the subject-matter.

Mr. PEPPER. Yes, sir.

Senator ROOT. They may have a very important bearing upon the relevancy and materiality.

Mr. PEPPER. Yes; Mr. Graham has suggested that these letters be introduced now. Of course, they will be introduced in orderly

sequence. If I might make a suggestion, I will submit copies of those letters now to the committee for consideration in executive session.

The CHAIRMAN. You can introduce them.

Mr. PEPPER. I would a little rather not do that, because it comes ahead of the story and will make chaos of the record if we put them in here, for I am trying to develop the case chronologically.

Mr. JAMES. Mr. Pinchot was chief of the Forestry Department when he went to see the President, wasn't he?

Mr. PEPPER. I can ask this question, postponing the decision of the committee: Mr. Pinchot, will you state why and in what capacity you went to see the President on March 20th?

Mr. PINCHOT. I went to see the President on March 20th because I had had several conversations with him about conservation matters and he had urged me to come to him whenever there was anything relating to conservation which I thought I ought to say to him; and accordingly I took this water-power question to him, because I believed it to be of very great importance, both to the nation and his administration. I was going both as Forester—if I may answer your question, Mr. James—as chairman of the National Conservation Commission, and as his friend.

Mr. PEPPER. Well, waiving for the moment the question that has been developed, let me ask you whether, subsequently to the interview of April 19, you had a second interview with the President? Do not state what took place, but whether you did have such a second interview.

Mr. PINCHOT. I had a second interview with him on either the second or third day following; I do not recall which.

Mr. PEPPER. That is either the 22d or 23d?

Mr. PINCHOT. That would be the 21st or 22d of April.

Mr. PEPPER. Will you now please refer to page 577 of Senate Document and to the letter dated Washington, April 23, 1909, written by the Secretary to the Director of the Geological Survey, and read that letter to the committee.

Mr. PINCHOT (reading):

DEPARTMENT OF THE INTERIOR,
Washington, April 23, 1909.

DEAR SIR: You will please immediately detail such employee or employees of your service as are available to make an investigation of water-power sites on the public domain, outside of national forests, which are not included within withdrawals for reclamation purposes with the view of securing at the next session of Congress legislation to control and regulate their disposition.

You will please have your report with regard to such lands available as early as possible in order that any necessary withdrawals may be made to protect such power sites pending the securing of such proposed legislation as may be recommended by the President.

All withdrawals made for the purpose herein mentioned will be of a temporary nature to allow the securing of such legislation as will permit of the disposition of the lands in question.

The Reclamation Service will cooperate with you in order to secure the necessary data.

Very truly, yours,

R. A. BALLINGER, *Secretary.*

Hon. GEO. OTIS SMITH,
Director of the Geological Survey.

Mr. PEPPER. And may I remind the committee, through you, Mr. Chairman, that the fifth paragraph in the offer of proof heretofore made by me is as follows:

To prove that on or about April 23 Secretary Ballinger informed Mr. Davis that the President had been talking with him; that he then read to Mr. Davis an order directing the Reclamation Service to make field examinations upon the basis of which to recommend rewithdrawal; that is the result of a suggestion made by Mr. Davis concerning funds available to meet the expense, this letter was redirected to the Geological Survey.

And may I ask you, Mr. Pinchot, recurring again to that letter to Mr. Pattison, to read to the committee the sentence beginning "They cover".

Mr. PINCHOT (reading):

They cover a very large area of enterable agricultural lands and were withdrawn through the Reclamation Service with no funds available for further investigation in that service. This accounts for the restoration and the direction to the Geological Survey, which is equipped with the means of securing the information desired.

Mr. PEPPER. I call attention, Mr. Chairman, to a document already in evidence, in Senate document, page 578, which is a communication from the Director of the Geological Survey, dated May 4, 1909, and approved the same date, and state, subject to correction, that that is the first of the rewithdrawals made by the Secretary of the Interior upon the recommendation of the Geological Survey.

And, Mr. Chairman, on page 580 and subsequent pages appear the documents evidencing the subsequent rewithdrawals made by Secretary Ballinger which are summarized in the appropriate columns in the tables appearing on page 86.

The CHAIRMAN. There appear to be several here.

Mr. PEPPER. Yes. I thought that for convenience of reference the table would give the dates and the acreage, and then if one wanted to look at the documents themselves, they appear on page 580 and subsequent pages.

The CHAIRMAN. Is that the same table at the top of page 86?

Mr. PEPPER. Yes, sir.

The CHAIRMAN. Does it refer to the same lands?

Mr. PEPPER. In the column on page 86 headed "Rewithdrawals, or "Withdrawals on recommendation of the Geological Survey."

The CHAIRMAN. In that first table?

Mr. PEPPER. In that first table, and also in the second table, at the foot of the same page, under the column "Withdrawals on recommendation of the Geological Survey," you get the summary of the matter which appears more at large in the Senate document on page 580 and subsequent pages.

Senator ROOT. These are copies of the instruments that effected the withdrawals enumerated?

Mr. PEPPER. Precisely, Senator. I now offer in evidence—

The CHAIRMAN. Would it not be a good plan, Mr. Pepper, to put these two tables here on page 86 into the record at this place?

Mr. PEPPER. I think it would.

The CHAIRMAN. So as to have them in connection with this testimony?

Mr. PEPPER. I think it would.

The CHAIRMAN. If there is no objection, that will be done. The tables as well as the notes between the tables there.

Mr. VERTREES. Would there be any objection to inserting there table 3, which appears on page 308?

Mr. PEPPER. That is a summary, Mr. Chairman, which, so to speak, combines statistically the results of the other two tables.

The CHAIRMAN. Suppose we take all on page 307 and 308 in that book, Mr. Pepper?

Mr. PEPPER. All right, Mr. Chairman.

The CHAIRMAN. And put those tables in the order in which they appear there?

Mr. PEPPER. That will be satisfactory.

(The tables are as follows:)

TABLE I.—*Withdrawals originally made in terms of "power sites" and "conservation of water resources."*

	On recommendation of Reclamation Service.			On recommendation of Geological Survey.		
	Withdrawn.	Restored.	Approximate area.	Withdrawn.	Total area.	Entered land.
Missouri River, Mont.....	1909. Jan. 18	1909. Apr. 7	273,280	1909. May 29	6,328	a 1,288
Wythee River, Oreg.....	...do....	Apr. 10	b 379,520	May 24	b 80,000	2,360
Missouri River tributaries, Mont. (Jefferson, Madison, Gallatin, and Beaverhead rivers).....	Feb. 16	...do....	356,480	May 29	31,963	c 1,326
Headwaters River, Mont.....	...do....	...do....	67,200	...do....	135	84
San Juan River, Mont.....	...do....	Apr. 7	18,500	(d)	(d)	(d)
Shoshone River, Idaho.....	Feb. 17	Mar. 30	322,560	May 29	55,700	2,360
Total.....			1,417,540		154,126	7,418
San Juan River, Utah.....	Feb. 19	(e)	115,200			
White River, Utah.....	Feb. 27	(e)	f 83,200	(f)		
Total.....			198,400			

a Of the area withdrawn on the Missouri, 1,518 acres, including 467 acres of entered land, were restored by July 13, 1909, after field examination, which showed that the power in the part of the river involved could not be developed from the tracts withdrawn.

b This 80,000 acres includes areas along the river which were missed in the original withdrawal. The large reduction from the original withdrawal, in spite of the fact that the subsequent withdrawals include some power sites, is explained in the accompanying map No. 1.

c Of the area withdrawn, the Missouri tributaries, 2,742 acres, including 793 acres of entered land, were restored on July 15 and 16 after field examination, which showed that the power in the part of the river involved could not be developed from the tracts withdrawn. The same examination showed that some of the best power in the region is now protected by this withdrawal.

d All lands along this river of value for power purposes were in private ownership at the time of the original withdrawal.

e Not restored.

f The White River (Utah) withdrawal of February 27, 1909, missed the river at several places. The Geological Survey withdrawal of August 20, 1909, covers these omissions. (See accompanying map No. 1, which shows also the large area of vacant public lands needlessly withheld from settlement.)

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TABLE II.—*Withdrawals originally made in terms of reclamation projects (stated by Reclamation Service on May 25, 1909, to have been for power purposes).*

	On recommendation of Reclamation Service.			On recommendation of Geological Survey.		
	With- drawn.	Re- stored.	Approx- imate area.	With- drawn.	Total area.	Enter- land.
North Platte River, Wyo.....	1908. Dec. 4	1909. Apr. 6	<i>Acres.</i> 149,120	1909. May 25	<i>Acres.</i> 6,520	<i>Acres.</i> 2
Grand River, Utah.....	do. Dec. 29	Apr. 10	61,440	July 30	28,410	
Yellowstone and tributaries, Mont.....	1909. Feb. 16	Mar. 27	435,840	June 23 { Aug. 9	3,747	1.42
Bighorn River, Wyo.....	Dec. 31	Apr. 6	271,000		(*)	
Green River, Wyo.....	Jan. 2	do.	331,520	May 26 { July 21	39,306	1.28
Colorado River, Utah.....	Feb. 16	Apr. 7	232,980	Aug. 13	87,360	
Bighorn River, Mont.....	do.	do.	54,400		0	
Green River, Utah.....	Feb. 17	Mar. 20 { Apr. 15	298,240	Aug. 27	101,660	2.77
Total.....			1,834,520		267,003	13.67

* All lands along this river of value for power purposes were in private ownership at the time of the original withdrawal.

TABLE III.—*New power-site withdrawals in areas not covered by any previous power withdrawals.*

	On recommendation of Geo- logical Survey.		
	With- drawn.	Total area.	Enter- land.
Duchesne River and tributaries, Utah.....	May 4	<i>Acres.</i> 32,700	<i>Acres.</i> 14.46
Animas River and tributaries, Colo.....	May 15	17,280	
Green River and tributaries, Colo.....	May 27	2,440	
Wind River and tributaries, Wyo.....	do.	7,221	
Ashley Creek and tributaries, Utah.....	May 28	2,120	
Greybull River, Wyo.....	June 5	1,040	
Owl Creek, Wyo.....	June 7	6,882	
North Fork Musselshell River, Mont.....	June 8	160	
Grand River, Colo.....	do.	900	
Boulder River, Mont.....	do.	80	
Beaverhead River, Mont.....	do.	80	
Snake River, Idaho.....	do.	1,232	
Flathead River, Mont.....	do.	288	
White Tail Creek, Mont.....	do.	1,080	
Payette River, Idaho.....	June 10	2,950	
North Fork Gunnison River, Colo.....	June 22	1,500	
John Day River, Oreg.....	June 26	14,402	2.92
Clark Fork and tributaries, Mont.....	do.	3,728	1.78
Deschutes River, Oreg.....	June 30	6,716	
Gunnison River and tributaries, Colo.....	July 7	11,274	1.49
Clarks Fork, Yellowstone River, Wyo.....	July 14	365	
Kootenai River, Montana, Idaho.....	July 15	2,094	1.00
White River, Colo.....	July 27	4,004	1.50
Blue River, Colo.....	July 30	3,529	1.42
Judith River, Mont.....	do.	9,997	1.42
Hell Gate River, Mont.....	Aug. 9	4,268	
Judith River, No. 2, Mont.....	Aug. 11	1,100	1.00
Ashley Creek, No. 2, Utah.....	do.	240	
Salmon River, Idaho.....	Aug. 13	96	
White River, Utah.....	Aug. 20	2,969	
Cochetopa Creek, Colo.....	Aug. 31	3,840	1.1
Yakima River, Wash.....	Sept. 3	6,253	1.1
Total.....		152,558	33.35

Mr. PEPPER. And may I call your attention, Mr. Chairman, and through you the committee's attention to the fact that appearing in table 1 on page 86 that the White River (Utah) withdrawal of February 27 has not been restored, and that on the map which is inserted between pages 86 and 87 in the lower left-hand corner thereof occur these words:

Area included in withdrawals made February 27, 1909, on recommendation of Director of Reclamation Service, and not restored, since Director of Reclamation Service did not so recommend.

The CHAIRMAN. That is on the second map?

Mr. PEPPER. It is on the second map—White River map, No. 2—which is the second of the inserts between pages 86 and 87.

Senator SUTHERLAND. There is a note "f" on that page, as follows:

The White River, Utah, withdrawal of February 27, 1909, missed the river at several places. The Geological Survey withdrawal of August 20, 1909, covers these omissions.

Mr. PEPPER. The map from which I am reading is a map which is designed to illustrate the facts referred to in that note. In other words, the original withdrawal was made upon a different map from the map used subsequently by the Geological Survey.

Senator SUTHERLAND. I will just read the note into the record and will supplement your map. The note referred to reads as follows, in full:

The White River, Utah, withdrawal of February 27, 1909, missed the river at several places. The Geological Survey withdrawal of August 20, 1909, covers these omissions. (See accompanying map No. 2, which also shows the large area of vacant public lands needlessly withheld from settlement.)

Mr. PEPPER. Yes, sir. Now, when you look at the map you will see that it indicates three classes of area, differently indicated graphically.

Senator SUTHERLAND. Where is the map?

Mr. PEPPER. On this same page; this same map, map No. 2, but a certain portion of the area is stated in the memorandum that I read, "Not restored since the Director of the Reclamation Service did not so recommend." It reads as follows:

Area included in withdrawal made February 27, 1909, on recommendation of Director of Reclamation Service and not restored; this Director of Reclamation Service did not so recommend.

The secondary matter indicated is an area included in a withdrawal made on August 20 by the Geological Survey to supplement a deficiency, or an alleged deficiency, in the original withdrawal, to which Senator Sutherland has called attention; and still a third area, graphically indicated, is intended to show private lands within the area covered by the original withdrawal.

The CHAIRMAN. I call your attention to the fact that according to his map it indicates that the lands in ranges 21 and 22 appear to be all in private ownership, do they not?

Mr. PEPPER. I think so; yes, sir.

Senator ROOT. There is one little place in 21—

Mr. PEPPER. But the others are mostly in 22. Of course, speaking subject to the chairman's correction, I should suppose that this could not be affected by the original withdrawal; in other words, the original withdrawal made a description of land by townships or sections.

and necessarily excluded from legal operation any entered land within the limits described.

Mr. Chairman, I now offer in evidence the letter of Secretary Ballinger to Senator La Follette, dated May 13, 1909, in reply to a letter received from the Senator bearing date of May 11, 1909, and among the documents produced from the Interior Department on pages 36 and 37 of this file. These letters are longer than the others, and I will not ask the witness to read them, but simply ask that they be incorporated in the record.

The CHAIRMAN. The letters referred to will be admitted in evidence without objection. There being no objection, it is so ordered. (The letters referred to are as follows:)

UNITED STATES SENATE,
Washington, D. C., May 11, 1909.

HON. RICHARD A. BALLINGER,
Secretary of the Interior.

DEAR MR. SECRETARY: I desire certain information respecting public land withdrawn from entry and sale, for irrigation purposes and water-power sites. Some of this land was withdrawn under the act of 1902, the reclamation act, and are known as "first-form withdrawals," being withdrawn for reclamation purposes. Other lands were withdrawn wholly or partly because of power-site possibilities and to await legislation upon that subject. These withdrawals were all made, I believe, during the administration of your predecessor in office.

Will you kindly advise me at your earliest convenience:

1. What first-form withdrawals were made?
2. Which of these have been restored during your administration?
3. What power-site withdrawals were made?
4. Which of these have been restored during your administration?
5. Was the reclamation withdrawal in the Deschutes River Valley restored?
6. What form of words were used in approving the railroad rights of way in the Deschutes River Valley?

Early and full information on the above will be very much appreciated. Thanking you for your courtesy, I remain,

Yours, sincerely,

ROBERT M. LA FOLLETTE.

DEPARTMENT OF THE INTERIOR,
Washington, May 13, 1909.

HON. ROBERT M. LA FOLLETTE,
United States Senate.

DEAR SENATOR: Replying to your letter of May 11, 1909, I have to advise you that the report of the Director of the Reclamation Service, submitted June 30, 1904, was to the effect that about 40,000,000 acres of public lands at that time were included in withdrawals, first and second form, reclamation act, out of which he estimated probably something more than 1,000,000 acres would ultimately be reclaimed. The figure first mentioned is not, however, absolutely accurate, inasmuch as the withdrawals were made by townships, many of which contained areas of lands at that time in private ownership. Since that date it appears no table of areas withdrawn had been prepared, and I would not be able to give you the total areas withdrawn under the reclamation act prior to March 4, 1909, and the restorations made up to that time without compilation of figures by the General Land Office and the Reclamation Service, which would occupy a considerable time. The bureaus in question have, however, been called upon to furnish this information and as soon as received I will take pleasure in transmitting same to you.

With reference to the other withdrawals to which your letter relates, I have to advise that, under dates of January 17 and 18 and February 16, 17, and 27, 1904, the Secretary of the Interior, upon recommendation of the Director of the Reclamation Service, withdrew, "with a view to the conservation of the water resources," in order that the lands might be held "available for the benefit of the public in connection with future development," an area of about 650,000 acres of lands in the

^a Following pencil notation on original "should be 3,650,000.—E. C. F."

States of Montana, Utah, Oregon, and Idaho. Under dates of March 30 and April 7 and 10, 1909, I restored to the public domain the lands in the States of Montana, Oregon, and Idaho, upon the recommendation of the Director of the Reclamation Service, he advising that the information in his possession would not warrant the further reservation of the lands, his bureau not being in possession of the funds with which to make the necessary investigations.

March 2, 1909, the Secretary of the Interior withdrew, "under the general supervisory authority of the Executive," 496 tracts of land in national forests in the States of Wyoming, Montana, Colorado, California, Idaho, Oregon, Oklahoma, Washington, and Utah, and the Territories of New Mexico and Arizona, considered more valuable for reservoir and power sites than for other disposal under the public-land laws, "to make certain that these lands shall not be acquired wrongfully under other laws than the right-of-way acts, * * * and also to give Congress opportunity to so amend or modify the public land laws that these particular lands may be devoted to their best use." These tracts vary in size from 40 to 320 acres and contain an estimated total area of about 40,000 acres. They have not been restored to the public domain, as I have deemed it advisable not to disturb existing conditions until the matter can be considered by Congress.

Although not directly covered by your inquiry, I desire further to state, for your information in connection with the matter of power sites, that the Geological Survey has on hand considerable accurate data and has an appropriation available for investigation of the subject, and on April 23, 1909, I directed that bureau to submit information relative thereto. As a result a number of temporary withdrawals have been made, or will be made in the near future, of small tracts of public land containing valuable sites, my purpose being to submit to Congress at its next session report and recommendation upon the subject, for such action, if any, which that body may deem proper.

The lands withdrawn in the Deschutes River Valley under the provisions of the reclamation act have not been restored. The application for rights of way filed by the Oregon Trunk Line (Incorporated) and the Deschutes Railroad Company have not been approved. The said companies have, however, filed in this department the stipulation required by the Reclamation Service to the effect that their tracks, if constructed, will be placed not less than 100 feet above the water line of the river. The Deschutes Power and Development Company filed protest against approval of the railroad's right-of-way applications, but the protest has been dismissed.

Very respectfully,

R. A. BALLINGER, *Secretary.*

Mr. PEPPER. Referring, Mr. Pinchot, to the paragraph in that letter, or the statement in that letter, specifying the restorations as having been made on the advice of the Director of the Reclamation Service, "that the information in his possession would not warrant the further reservation," I ask whether you know of any advice to the effect stated, given by the Director of the Reclamation Service, excepting what has already been referred to?

Mr. PINCHOT. I do not.

Mr. PEPPER. I also offer in evidence the letter of Senator La Follette to Mr. Ballinger of May 22, 1909, which appears on page 60 of the file, and the reply of the Secretary of the Interior on page 61 of the file, dated May 25, 1909.

The CHAIRMAN. They will both be admitted.

UNITED STATES SENATE,
Washington, D. C., 22d May, 1909.

Hon. R. A. BALLINGER,
Secretary of the Interior, Washington, D. C.

DEAR MR. SECRETARY: I thank you very much for your letters of the 13th and 14th, respectively, relating to the withdrawal and restoration of lands valuable as power sites. I am greatly obliged to you for the information contained therein, and beg to ask whether it is possible, at this time, for you to furnish me with a list of the lands mentioned in the first paragraph of page 2 of your letter of the 13th, amounting to about 650,000 acres in Montana, Utah, Oregon, and Idaho, which were withdrawn on January 17-18 and on February 16, 17, and 27, 1909, "with a view to conservation of the water resources, and in order that the lands might be available for the benefit of the public in connection with future development."

I should like to be informed further whether in view of the fact that water-power sites are now recognized as enormously valuable, and are eagerly sought by private corporations, what, if anything, now prevents these lands from being entered and lost to the public domain. And what, if anything, is being done by your department to prevent such loss. I note with interest your statement that the Geological Survey is engaged in furnishing lists of power sites which are being "temporarily withdrawn" until such time as Congress may see fit to take action for the protection of the public domain against loss. I should be glad to be informed as to what measures, if any, have been taken to prevent the loss of these sites pending investigation by the Geological Survey as to their value and location and while that service is engaged in the work of preparing the lists. Information of an apparently reliable character has been furnished me to the effect that the branch of the Geological Survey having the matter in hand has not sufficient funds to make an adequate investigation of the subject; that in any case such investigation would consume considerable time, and that the appearance in the field of surveyors making the profiles and doing other work necessary in the premises would constitute a signal to those covetous of those sites to go in under the present law and take them up.

Is there any reason why temporary withdrawals of the sort which you inform me have been made, or will be made in the near future, of small tracts of the public lands containing valuable sites, pending action of Congress, may not be made as to all lands along the courses of streams known to be promising water courses for power-site surveys, to the end that restorations to the market may be after the survey's indefinite locations have been made, instead of before?

Very respectfully, yours,

ROBERT M. LA FOLLETTE

DEPARTMENT OF THE INTERIOR,
Washington, May 25, 1909.

HON. ROBERT M. LA FOLLETTE,
United States Senate.

DEAR SENATOR. In reply to your letter of May 22, 1909, relative to "water conservation" withdrawals in the States of Montana, Utah, Oregon, and Idaho, which were revoked except as to Utah; also to my letter to you of May 13, informing you that steps were being taken to temporarily withdraw lands probably valuable for power sites pending submission of the matter to Congress for such action as it might deem advisable, I note that you fear that the sites may be obtained by private corporations before the lands are segregated; also that you are reliably informed that the Geological Survey has not sufficient funds with which to make an adequate investigation of the subject, and that you fear, even if it has, that the appearance of its engineers in the field will result in a rush by the public to obtain the sites before they can be withdrawn.

I have to advise you that the withdrawal of the lands in Utah was not revoked because it was found to be approximately accurate upon investigation of the matter by the Geological Survey. It will, however, be modified so as to include only the lands probably valuable for the purpose and to exclude land chiefly valuable for agriculture or other purposes. The Owyhee River, Oregon, withdrawal, which was revoked April 10, 1909, has been carefully gone over by the officers of the Geological Survey in connection with their records, and a withdrawal made which includes not only the probable power sites included in the said withdrawal of January 18, 1909, but sites in two additional townships, and this withdrawal only includes 60,000 acres of land as against 387,400 acres included in the former withdrawal. The same course is being followed with reference to the lands in Montana and Idaho. Furthermore, the system inaugurated by me is of vastly wider scope than the former withdrawals, and I have already withdrawn many thousand acres of land not included in the withdrawals originally made, and will continue to do so within the next few days as fast as data is secured. The difference between the method of withdrawal is that the latter withdrawals are based upon facts actually ascertained by survey and examination, and are confined strictly to legal subdivisions, or sections containing the possible power sites, and do not, as did the original withdrawals, include large areas of no possible value for power sites, but possessing value for agriculture and property subject to disposition under the general land laws of the United States. The form of withdrawal being used is substantially as follows:

"(Duchesne River and tributaries, Utah.)

"In aid of proposed legislation affecting the disposal of the water-power sites on the public domain, all public lands in the following list are temporarily withdrawn from all forms of entry, selection, disposal, settlement, or location, and all existing claims, filings, and entries are temporarily suspended. All valid entries heretofore made are

proceed up to and include the submission of final proof, but no purchase money will be received or final certificates of entry issued until further orders."

With reference to the ability of the Geological Survey to do this work, I have to advise you that in the exercise of its regular duties for the past thirty years the Geological Survey has been making field examinations of the streams, the waters therein, and of the formation and topography of the country, and has collected as a result of these operations a vast amount of accurate and valuable information upon the subject. The possession of this information enables the survey to furnish the data for these temporary withdrawals as to all areas covered by its previous investigations without further examination in the field. As to areas that have not been covered by that bureau in its field work, I have already directed that temporary withdrawals be made along the streams containing possible power sites pending field investigation this summer.

In view of the information already on hand upon the subject, it is believed that the appropriation made by Congress to the Geological Survey for investigation of the water resources, etc., of the country will be ample for the purpose.

In brief, the former withdrawals were made largely upon insufficient information and withheld from entry large areas of public lands of no possible value for power sites, while the withdrawals now being made are based upon information derived from actual, accurate field examination, and are confined to the actual tracts having a possible value for power sites.

Copies of the orders of withdrawal in Montana, Utah, Oregon, and Idaho are inclosed, as requested.

Very respectfully,

R. A. BALLINGER, *Secretary*.

Mr. PEPPER. I call the attention of the committee to the fact that the letters in question refer to the Owyhee River restoration appearing in Table No. 1 of page 86 of Senate Document No. 248, and I think upon reference the letters will be found to contain an inquiry from Senator La Follette, under date of May 22, as to the reason for that restoration, and a reply of the Secretary, under date of May 25, to the effect that the lands have been rewithdrawn, and a reference to the table shows that they were rewithdrawn on the intervening day.

Now, Mr. Pinchot, I have questioned you in detail as to the various steps that have been taken in connection with these water-power withdrawals and restorations. Is there anything that you want to say respecting all those restorations considered together?

Mr. PINCHOT. The essential fact about the restorations taken all together, as I see it, is that they reverse a policy of the greatest importance, and would have, if they had not been checked, subjected these water-power sites to private appropriation.

Mr. PEPPER. Now, it is very hard, Mr. Chairman, for me to ask such a question as I should conceive it my duty to the case to ask, in the absence of a ruling from the committee on the question.

The CHAIRMAN. You may go on and can cover that matter afterwards. Just proceed with the other part of your case now.

Mr. PEPPER. Very well. I will ask Mr. Pinchot whether, so far as you know from the record, from any other source, the original restorations of these lands, containing power sites, were made as part of a comprehensive plan that included their rewithdrawal at a subsequent date?

Mr. PINCHOT. Mr. Pepper, I am under the same difficulty that you are in answering that question. I conceive myself to know the facts upon that point, but to be prevented from answering your question because the committee has not as yet ruled.

Mr. PEPPER. Very well. Now, turning for the time being from the matter of power sites, I ask you to recur to the subject of withdrawals for ranger stations, exclusive of administrative sites. Were any

requests for such withdrawals submitted to Secretary Ballinger subsequent to March 4, 1909?

Mr. PINCHOT. A very considerable number of such requests were awaiting action at the time he became Secretary, and others were constantly coming in as a matter of routine. There were several hundred awaiting his action, I believe.

Mr. PEPPER. Let me ask you whether those requests had any relation to water-power sites?

Mr. PINCHOT. None, whatever.

Mr. PEPPER. I ask you again whether the withdrawal of the water-power sites in the ranger station form of withdrawal had all been entered by a supplementary withdrawal under the supervisory power prior to March 4, 1909?

Mr. PINCHOT. They had; and just as soon as it became evident that water-power withdrawals could be made under the supervisory power, the necessity for ranger station withdrawals to protect the power sites disappeared.

Senator SUTHERLAND. Now, what action did Secretary Ballinger take with respect to the requests for withdrawal of ranger stations for forest use?

Mr. PINCHOT. He refused to make the withdrawals from the only form of appropriation which was still open.

Mr. PEPPER. What was that?

Mr. PINCHOT. The mineral-land entry—the mineral-land location.

Mr. PEPPER. You are now speaking of withdrawals from entry.

Mr. PINCHOT. Within the national forests.

Mr. PEPPER. Of ranger stations within the limits of the national forests?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Did some of the requests relate to the withdrawal of lands from entry included in the public domain, but outside the limits of the national forests?

Mr. PINCHOT. They did.

Mr. PEPPER. And of those outside the limits of the national forests, were some included within the limits of the six States where, by law, the areas of the national forests can not be enlarged except by congressional action?

Mr. PINCHOT. They were.

Mr. PEPPER. As a matter of fact is the withdrawal of land from entry for ranger-station purposes a withdrawal for forest use?

Mr. PINCHOT. It is a withdrawal outside of the national forest for a public use, and the withdrawal does not make them, as I understand that is, make the ranger stations, a part of the national forests inside of the national forests. It is a double withdrawal superposed for forest purposes.

Mr. PEPPER. What is the necessity or the expediency for these ranger station withdrawals as regards the efficiency of the forest administration?

Mr. PINCHOT. It is absolutely necessary. In the absence of withdrawal from mineral entry of ranger stations it becomes possible for any man who wants a cabin and a stable and a pasture to locate placer claims or any other mineral claims right over the property of the Government, and either successfully take possession of it or give the Government an immense amount of trouble in defending its title.

Mr. PEPPER. Do you recall approximately when the Secretary refused to make those withdrawals?

Mr. PINCHOT. The form of the refusal, I believe, was in April. In fact I know there were several letters about the middle of April.

Mr. PEPPER. I show you a communication from the Secretary of the Interior to the Secretary of Agriculture, dated April 13, and ask if that is one of these refusals that took place about that time?

Mr. PINCHOT. This is one of them; yes, sir.

Mr. PEPPER. What course had been pursued in regard to those requests for withdrawals by Mr. Ballinger previously to that?

Mr. PINCHOT. They had been informally acceded to by Secretary Hitchcock and by Secretary Garfield.

Mr. PEPPER. What course was taken by the Secretary of the Interior with regard to these requests which he denied? Did he make them a subject of reference to anybody; and if so, to whom?

Mr. PINCHOT. They were made a subject of discussion, as I am told, between—

Mr. PEPPER. I am referring not to the discussion that took place so much as the question of an official reference.

Mr. PINCHOT. There was an official reference of briefs, as I recall, on both sides—briefs from the Department of the Interior and the Department of Agriculture to the Attorney-General in May for the determination of this question.

Mr. PEPPER. So far as you are advised, has that matter been made the subject of determination?

Mr. PINCHOT. So far as I am advised, there has as yet been no decision.

Senator FLETCHER. May I ask one question there, whether or not the action of the Secretary in refusing to make certain withdrawals—in making certain restorations—had any reference to the question as to whether the lands were properly embraced within the forest reserves?

Mr. PINCHOT. Whether the lands in the national forests were already properly there?

Senator FLETCHER. Yes.

Mr. PINCHOT. Not that I know of.

Senator FLETCHER. In other words, was there any contention that those lands were in the national forests which had been withdrawn after the act of March 3, 1907?

Mr. PINCHOT. No, sir; not that I know of.

Mr. PEPPER. The reference was made by counsel to certain legislation respecting six States. I suppose he had reference to that act of March 3, 1907, which provides that thereafter no forest reserves shall be created nor shall any additions be made to any heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, and Wyoming except by act of Congress.

Mr. PINCHOT. There were three cases. My answer, as I understood your question, was correct; that is to say, as to the land included in the national forest already there. When these requests were made no such question as that arose. Now, as to the second class of lands which were outside of the national forests within the six States that question did arise; that is to say, as I recall it, the refusal was upon the ground that the making of these ranger stations and withdrawal of those ranger stations inside of the six States and outside

of the boundaries of the national forests was in effect by an executive proclamation, and therefore within the provisions of the law which you have just read.

Mr. PEPPER. In point of fact, speaking with such approximation and accuracy as you can, what is the acreage of the ranger-station withdrawals outside of the limits of the national forests?

Mr. PINCHOT. My recollection is it is something like 20,000 acres.

Mr. PEPPER. And the total area of the national forests is about what?

Mr. PINCHOT. About 200,000,000 acres.

Mr. PEPPER. So the question concerns one one-hundredth of 1 per cent.

Mr. PINCHOT. One one-hundredth of 1 per cent of the forest lands.

Mr. PEPPER. The question just asked by a member of the committee involves the supposition that a ranger station when withdrawn is, in substance, a part of a forest.

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Is it withdrawn for use as a forest, or for the reason that forests are withdrawn?

Mr. PINCHOT. It is not withdrawn as part of the forest, as I understand it; it is withdrawn under a totally different power, under the power of withdrawal for public purposes, which has existed, as the chairman of the committee has very well said, as I think, which has existed since the beginning of the Government, and has never been questioned until recently.

Mr. PEPPER. In so far as the requests and the refusal gave rise to a question of law, those questions were submitted by the Secretary to the Attorney-General, and so far as you know that submission is still pending?

Mr. PINCHOT. Still pending.

Mr. PEPPER. But since the 4th of March, 1909, there has been no withdrawal from entry of administrative sites or ranger stations for forest uses?

Mr. PINCHOT. So far as I know; no, sir.

Mr. PEPPER. And that applies not merely to land inside the forests or outside of the forests, but to both?

Mr. PINCHOT. To both.

Mr. PEPPER. And not only in the six States, but in other States?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Now, Mr. Pinchot, I questioned you about the Secretary's action in restoring the water-power sites, and his refusal to grant requests for withdrawal of ranger stations. I direct your attention to the matter of the termination of the Indian cooperative agreement which you referred to a while ago. What were the steps leading up to that incident?

Mr. PINCHOT. That agreement had been in effect under Secretary Garfield, and during the time when Mr. Loup was Commissioner of the Land Office. There was the usual and inevitable friction in getting down to work under it, during the early stages of its application. That stage had been passed by and we were doing effective work on a number of Indian reservations under it. After Secretary Ballinger became Secretary difficulties arose of such a nature as to lead to a vigorous protest on our part by word of mouth to officers of the Interior Department, and finally the agreement was abro-

gated. I have forgotten the date; July, I think it was; early in July, 1909.

Mr. PEPPER. Mr. Chairman, I was asking Mr. Brandeis whether there had yet gone into the record the President's letter to Secretary Ballinger of September 13, 1909, which is the letter in which he formally dismissed the Glavis charges and ordered Glavis's dismissal from the service, or authorized his dismissal. That letter deals with a good many matters besides the Cunningham claims, and among others is the matter that I am now interrogating the witness about.

The CHAIRMAN. Is it the President's letter, or Mr. Pinchot's letter?

Mr. PEPPER. It is the President's letter to Secretary Ballinger of September 13. Mr. Brandeis tells me he has called for it, but it has not yet been put in.

The CHAIRMAN. From what source have you got that copy?

Mr. PEPPER. This copy was sent to Mr. Pinchot under cover of the same date, advising him of the disposal of the——

Mr. PINCHOT. No; it is a copy of that.

Mr. PEPPER. It is a copy of a copy. I mean Mr. Pinchot received under date of September 13 from the President, a copy.

Senator ROOT. It is not in the record anywhere?

Mr. PEPPER. I do not think so.

Mr. BRANDEIS. It is not in the record.

Senator PURCELL. Is that the original?

Mr. PINCHOT. It is the one I received from the President.

CHAIRMAN. Is there any objection to the admission of that? There being no objection, it is so ordered.

(The letter referred to is as follows:)

BEVERLY, MASS., September 13, 1909.

MY DEAR SIR: On the 18th day of August last Mr. L. R. Glavis, Chief of Field Division of the General Land Office, with headquarters at Seattle, Wash., called upon me here and submitted a statement or report relating to the conduct of the Interior Department, and particularly to the action of yourself, Assistant Secretary Pierce, Commissioner of the General Land Office Dennett, and Chief of Field Service Schwartz in reference to the so-called Cunningham group of coal-land claims in Alaska.

Mr. Glavis's report does not formulate his charges against you and the others, but by insinuation and innuendo, as well as by direct averment, he does charge that each one of you while a public officer has taken steps to aid the Cunningham claimants to secure patents based on claims that you know or have reason to believe to be fraudulent and unlawful. The report, which is voluminous and contains exhibits of telegrams, letters, and public documents, I directed to be copied and sent to you and the other officers involved. You and each of the other gentlemen named have now made written answers to the statement of Mr. Glavis, and accompanied them by additional exhibits taken from the records of the Interior Department, as well as by private letters.

I have examined the whole record most carefully and have reached a very definite conclusion. It is impossible for me, in announcing this conclusion, to accompany it with a review of the charges and the evidence on both sides. It is sufficient to say that the case attempted to be made by Mr. Glavis embraces only shreds of suspicions without any substantial evidence to sustain his attack.

The whole record shows that Mr. Glavis was honestly convinced of the illegal character of the claims in the Cunningham group and that he was seeking evidence to defeat the claims. But it also shows that there was delay on his part in preparing the evidence with which to bring this, with other claims, to hearing, and that justice to the claimants required more speedy action than the department, through Mr. Glavis, seems to have taken.

Mr. Glavis seeks, by quoting from a single telegram in the department, to show that at one time the department wished to delay him in his investigations of the Alaska claims and at another time unduly to hurry him, and he attempts to prove these two circumstances by citing telegrams and correspondence without disclosing other circum-

stances and correspondence which he knew or had under his control, and which dealt with an entirely proper reason for the action which, in each case, was directed to be taken.

In other words, the reading of the whole record leaves no doubt that in his own mind you convicted yourself, Acting Secretary Pierce, Commissioner Bennett, and Mr. Schwartz. He did not give me the benefit of information which he had that would have thrown light on the transactions, showing them to be consistent with an impartial attitude on your part toward the claims in question.

The great responsibility of Cabinet positions demands the selection thereof of men of the highest character and integrity. Possession of these qualities, as well as an ability and experience which especially fitted you to direct the affairs of the Department of the Interior, warranted your appointment as Secretary. Duty to the country and to you, and to myself requires that any aspersion upon the propriety of your acts or those of your subordinates be promptly met and carefully considered, to the end that a justified, proper remedy may be applied, and if not that it may be publicly refuted.

By appointment of President Roosevelt you became Commissioner of the General Land Office in March, 1907, and resigned the position in March, 1908, and then returned to Seattle, your home, to resume the practice of the law. In March, 1907, I appointed you Secretary of the Interior, and you assumed the duties of your office on the 5th day of that month. In the interval, when you were not holding office, one of the Cunningham coal claimants consulted you in regard to the prospect of securing a patent upon the claims and invited your attention to the character of certain evidence which was being used to impeach the validity of the claims by Special Agent Glavis. You accepted the employment, visited Secretary Garfield and Commissioner Dennett, presented the question to them in respect to which you had been consulted, and found that there was no probability of securing the patent of the claims without presenting them under recent remedial legislation imposing conditions which the claimants were either unwilling or unable to meet. You so advised your clients. To pay your traveling expenses and for your services you received \$250 and no more.

The inference which Mr. Glavis seeks to have drawn to your discredit in this connection is that you, while Commissioner of the General Land Office, came into possession of facts concerning the so-called Cunningham group of coal-land claims which made it improper for you to use such facts after your resignation in the course of securing the patents. I find the fact to be that as commissioner you acquired no knowledge in respect to the claims except that of the most formal character, and nothing which was not properly known to your clients when they consulted you. The evidence in respect to which you were consulted professionally was not secured by Mr. Glavis until after your resignation as Commissioner of the General Land Office.

A second inference sought to be drawn by Mr. Glavis against you is that you have acted improperly since you became Secretary of the Interior in reference to the consideration of the Cunningham cases and have used your influence to interfere with Mr. Glavis's efforts to defeat the claims.

Your only action which could in any manner affect the Cunningham group of claims was an order made by you soon after assuming office, that the 30,000 claims pending and undisposed of in the Land Office should be pressed to final hearing and disposition as rapidly as possible consistent with justice, and these included the 931 Alaska coal claims, of which the Cunningham group numbered 19. As such expedition was essential both in the public interest and in that of the claimants it could hardly be said to be action taken in the Cunningham claims.

The record overwhelmingly establishes that expressly because of your previous relation as counsel to one of the claimants from the time you entered upon your duties of the office of Secretary of the Interior until the present day you have studiously declined to have any connection whatever with the Cunningham claims, or to exercise any control over the course of the department in respect to those claims; that you have said so in written and verbal communications to your subordinates and to the claimants themselves. Moreover, in May last you came to me and made a similar statement to me of your course and intention in respect to those claims.

The statement made by Mr. Glavis that while you did thus formally withdraw from any official connection with the Cunningham claims you nevertheless continued to exercise your influence in regard to them is not sustained by any evidence in the records produced.

The truth is that had you, or Commissioner Dennett, or Chief of Field Service Schwartz, during the years of the pendency of these claims, been desirous of the dishonest motives and without regard to law and the interests of the public, of bringing them to patent, the opportunities for you to have done so were many, at the circumstance that speaks, not more conclusively than the others, but still more emphatically, against the accusatory statements of Mr. Glavis, is the fact that his conviction that the claims were fraudulent or illegal was well known in the department.

ment, he was allowed, during all the years of the pendency of these claims, to remain in charge of them as an agent of the department, when it would have been entirely easy for you or Dennett or Schwartz to remove him to Portland or elsewhere, and thus take the claims out of his jurisdiction. Instead of this, with the consent and acquiescence of every officer whose corrupt motives in respect to these claims he now asserts, Glavis has remained continuously in control of the taking of evidence with respect to the claims, and only when the claims were about to be submitted to hearing before a tribunal was thought necessary (Mr. Glavis not having had any professional experience) to give them in charge of Mr. Sheridan, a lawyer, whose good faith and earnestness in opposing the patenting of the claims even Mr. Glavis has not had the temerity to question.

In your answer you request authority to discharge Mr. Glavis from the service of the United States for disloyalty to his superior officers in making false charge against them. When a subordinate in a government bureau or department has trustworthy evidence upon which to believe that his chief is dishonest and is defrauding the Government, it is, of course, his duty to submit that evidence to higher authority than his chief. But when he makes a charge against his chief founded upon mere suspicions, and in his statement he fails to give his chief the benefit of circumstances within his knowledge that would explain his chief's action as on proper grounds, he makes it impossible for him to continue in the service of the Government, and his immediate separation therefrom becomes a necessity. You are therefore authorized to dismiss J. R. Glavis from the service of the Government for filing a disingenuous statement, unjustly impeaching the official integrity of his superior officers.

I can not close this letter without referring to certain other matters connected with your conduct in the Interior Department, which have been unfairly used in the public press to support a general charge that you are out of sympathy with the declared policy of this administration, following that of President Roosevelt, in favor of the conservation of national resources, especially in connection with coal lands, with water-power sites, and with the system of reclamation of arid lands, which are all within the jurisdiction of the Interior Department.

In the first place, it was charged on the floor of the Irrigation Convention at Spokane by former Governor Pardee, of California, that you had restored to the public domain or settlement certain lands which had been withdrawn by the last administration for the purpose of conserving water-power sites, and that after complaint made thereof you had subsequently withdrawn some of the lands again from settlement; but that meantime, between the one act and the other, an opportunity had been given to the so-called "water-power trust" to file entries and obtain vested rights in valuable water-power sites in the State of Montana.

At the same time that this charge was made by Governor Pardee there appeared in the public press, in a telegram which seems to have had the widest circulation, a statement quoted from a Montana paper that a water-power company, with a capital of ten millions of dollars, had in the interval between the order of restoration and the order of withdrawal located and obtained vested rights in 15,000 acres of land in Montana, which absorbed for the company all the valuable water-power sites in that State, and the statement was accompanied by detailed reference to the particular land office and the particular agent through whom this result was accomplished.

The inference which it was sought to have drawn and which was drawn by newspapers hostile to you was that you had brought restoration to settlement of the land upon which were the water-power sites for the purpose of enabling private water-power companies to acquire vested interests; that after doing so you had then withdrawn what remained from public settlement, and that you took this course because you were out of sympathy with the policy of conservation of national resources, and were in favor of the corporate control of such water-power sites.

When the facts are examined in this regard it will be found that the persons responsible for the circulation of these charges have done you cruel injustice. The fact was that in January, 1909, in the last administration, executive orders were made withdrawing from public settlement 1,500,000 acres at the instance of the Reclamation Service for conservation of water-power sites.

Soon after you became Secretary of the Interior you brought this order to my attention and said that it included a great deal of land that had no water-power sites on it, running back many miles from the rivers, and that it included much land which ought to be opened to public settlement; that you had applied to the Reclamation Bureau to know whether it was desired for reclamation purposes, and what their recommendation was in the premises, and that they recommended that it be returned to the public domain.

You also advised me that it was possible to procure from the Geological Survey an accurate statement of the water-power sites which were available, and which might

be subjected to private ownership, and that you would direct the Geological Survey to make such statements; and that then there could be made temporary withdrawal of the land needed to reserve these water-power sites until Congress could act.

The order revoking the withdrawal of the million and a half acres was made in April. Sufficient information was procured from the Geological Survey to permit an order withdrawing the land upon which were water-power sites in May, and this withdrawal covered about 300,000 acres instead of a million and a half. The form of the new order of withdrawal was such that it set aside all filings and entries of any kind which had been made prior to its going into effect, and, as a matter of fact, not one single filing has been attempted on any of the water-power sites since the original order of withdrawal in January, 1909.

The story as to the 15,000 acres in Montana circulated by publication in the newspapers when presented by Governor Pardee was reduced to 158 acres near the Missouri River in Montana, or four tracts of 40 acres each; and it now turns out, from examination of the records, that these filings were refilings of entries made ten years before that the refilings were made on the 11th of June, 1909, more than two weeks after the withdrawal of the water-power sites in Montana, and that the four tracts of 40 acres each filed upon had no water-power sites on them at all.

It further appears from a report of the Director of the Geological Survey that the order of withdrawal of January, 1909, was hastily made by townships and by reference to inadequate maps, that it included large areas not within miles of any river or stream, and that it failed to include many valuable water-power sites in the immediate vicinity. From the same reliable source it is learned that under the withdrawal made by your department from time to time, beginning in May last, there are now withheld from settlement awaiting the action of Congress 50 per cent more water-power sites than under previous withdrawals, and that this has been effected by a withdrawal from settlement of only one-fifth of the amount of the land.

In connection with the same charge, weight has been given to the fact that you have declined to carry out the contracts made by the Reclamation Service with homesteaders and entrymen, by which certificates were issued to entrymen for work done and material furnished with a view to enlarge the projects of the Reclamation Bureau.

You brought up the question of the legality of such certificates in a Cabinet meeting and were directed to submit it to the Attorney-General. That officer has, very properly, in my judgment, decided that it is at variance with an explicit prohibition of the reclamation law to issue such certificates. The fundamental mandate of that law is that no project shall be entered upon until there is money enough in the reclamation fund to pay for the project or part thereof contracted for.

The certificate system is, in fact, a system for borrowing labor and material and making the Government a debtor to intending settlers, a system that is inhibited by law and can not but result ultimately in disaster. Of course, those who have accepted such certificates for labor and material in good faith ought to be recompensed, and I shall ask from Congress at the next session especial relief for them.

Meantime the work of reclamation should be carried on wherever funds are available with all the dispatch possible, and I am assured that this is being done. I hope that after you have made personal investigation of all the reclamation work and looked into the finances of the undertakings you will be able to make a report to Congress showing exactly what has been done, what ought to be done, and what additional legislation, if any, is needed and ought to be passed to further this great and important work.

Another instance in your conduct of the department which has been mentioned is indicative of your purpose to block the general plan of conservation of national resources is your refusal to carry out a contract made in the last administration between the Secretary of the Interior and the Secretary of Agriculture by which the Interior Department delegated to the Forestry Bureau of the Agricultural Department the power and duty to conserve the forests on the Indian reservations and to expend, under the control of the Forestry Bureau, the money appropriated by Congress to be expended by the Indian Bureau for such conservation of Indian forests. Your declination to carry out the contract was made necessary by a ruling of the comptroller, whose ruling is final and without appeal, even to the President, that such an arrangement is a delegation of responsibility and authority for the expenditure of money which the appropriation by Congress for the Indian Bureau did not authorize.

While I agree that it would avoid wasteful duplication in organization to authorize the Forestry Bureau of the Agricultural Department to take care of and develop the forests on Indian reservations, because the Forestry Bureau is much better able, with its trained men, to do the work with efficiency and economy, it is plainly necessary, in view of the comptroller's ruling, to secure congressional sanction for such cooperation.

Meantime, your withdrawal from an unauthorized contract does not furnish the slightest basis for attributing to you unfriendliness to proper forestation.

In my judgment, he is the best friend of the policy of conservation of natural resources who insists that every step taken in that direction should be within the law and buttressed by legal authority. Insistence on this is not inconsistent with a whole-hearted and bona fide interest and enthusiasm in favor of the conservation policy. From my conference with you and from everything I know in respect to the conduct of your department I am able to say that you are fully in sympathy with the attitude of this administration in favor of the conservation of natural resources.

Sincerely, yours,

WILLIAM H. TAFT.

HON. RICHARD A. BALLINGER,
Secretary of the Interior, Washington, D. C.

Mr. PEPPER. Mr. Pinchot, at this point in your testimony, as reference has been made to the Indian contract, I will ask you to anticipate the order for a moment and read those paragraphs of the President's letter to Secretary Ballinger which have reference to the Indian contract.

Mr. OLMSTED. Let me ask you a question. Is that in the Senate document?

Mr. BRANDEIS. No, sir; it is not in the Senate document. That is the reason I called for it.

Mr. PINCHOT. I will read a paragraph, the one next to the last and next before that in this letter of the President.

Another instance in your conduct of the department which has been mentioned as indicative of your purpose to block the general plan of conservation of national resources is your refusal to carry out a contract made in the last administration between the Secretary of the Interior and the Secretary of Agriculture, by which the Agricultural Department delegated to the Forestry Bureau of the Agricultural Department the power and duty to conserve the forests on the Indian reservations and to expend under the control of the Forestry Bureau the money appropriated by Congress to be expended by the Indian Bureau for such conservation of Indian forests. Your declination to carry out the contract was made necessary by a ruling of the comptroller, whose ruling is final and without appeal even to the President, that such an arrangement is a delegation of responsibility and authority of expenditure of money which the appropriation by Congress for the Indian Bureau did not authorize.

Mr. PEPPER. Reference is made there, Mr. Pinchot, to the decision of the comptroller. Do you know what that reference is, or what comptroller's decision is in question?

Mr. PINCHOT. There is, so far as I am aware, no decision of the comptroller which bears upon the point at issue.

Mr. PEPPER. I call your attention to Senate document, page 91, in which there appears to be a memorandum prepared in the Indian Office in favor of the legality of the agreement in question. I call the attention of the committee to that memorandum prepared by Mr. Finney, of July 9, 1909, suggesting the illegality, but as far as I can see, not referring to any such decision of the comptroller, and I ask you, Mr. Pinchot, whether up to the time of the actual termination of that agreement you heard anything about the illegality of the agreement as necessitated by a comptroller's decision?

Mr. PINCHOT. In repeated conferences, both with the Commissioner of Indian Affairs and the Assistant Secretary of the Interior, Mr. Pierce, I heard no such decision mentioned.

Mr. PEPPER. When that decision was afterwards referred to it was found to be a decision of what date?

Mr. PINCHOT. September 3, 1908, I should say.

Mr. PEPPER. The agreement having been made in July, 1908?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Has there been a passage of vouchers under the terms of that agreement subsequent to November 3, 1908?

Mr. PINCHOT. There had; the agreement had been before the auditor.

Mr. PEPPER. What protest, if any, did you make to the Indian Office somewhere about July 9, 1909?

Mr. PINCHOT. We were at that time confronted with various fires burning on several of the Indian reservations. The Indian Office had not allotted to the Forest Service, in accordance with the understanding made under the agreement with which to fight those fires, and the protest I made was that the fires were burning and we needed funds to put them out, and we had asked for them long before and they had not been allowed.

Mr. PEPPER. Was any advice given on this subject by Mr. Valentine on or about July 10; I mean on the subject of the continuation of the cooperative agreement?

Mr. PINCHOT. My impression, and it is not a clear one, is that there was a letter of that date recommending a continuation of the agreement, but I believe that letter can be produced, if it is here—if there is one. I do not recollect it clearly.

Senator SUTHERLAND. What is the date of the President's letter which you have read?

Mr. PEPPER. That was September 13, 1909. I referred to it out of order. That is the letter which disposed of the Glavis charges, or sought to dispose of them.

Senator SUTHERLAND. The paragraph that Mr. Pinchot read was with reference to this cooperative agreement. Did you say that the comptroller had rendered an opinion on that agreement?

Mr. PINCHOT. To my knowledge he has not.

Senator SUTHERLAND. Will you look at page 95 of Senate document?

Mr. PINCHOT. Yes, sir; I am familiar with that.

Senator SUTHERLAND. You are familiar with it?

Mr. PINCHOT. Yes, sir.

Senator SUTHERLAND. I want to ask you, does that not cover the point?

Mr. PINCHOT. Not to my knowledge.

Senator SUTHERLAND. The paragraph next to the last reads:

The detail of an employee from one department to another, with or without an agreement between the heads of the departments concerned, to perform duties which are not connected with the department from which detailed, and the payment of his salary from appropriations for, or moneys under the control of, the department to which detailed is authorized (14 Comp. Dec., 294), unless express authority by statute is granted therefor, and I am not aware of any statute that either expressly or implicitly gives general authority to make such details between the Agricultural and Interior departments.

Now, it seems that that opinion was given with direct reference to this cooperative agreement, because the first part of the letter recites the cooperative agreement.

Mr. PEPPER. Yes, sir.

Senator SUTHERLAND. It would appear that the comptroller had that in his mind.

Mr. PINCHOT. May I explain that?

Senator SUTHERLAND. Yes; I would be very glad to have you do it.

The CHAIRMAN. Before you do so, let me call your attention to page 93, being Mr. Finney's memorandum. You will see there that Congress on March 3, 1909, passed an act—

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to make investigations on Indian reservations, and take measures for the purpose of preserving living and growing timber, and removing timber, standing or fallen; advise the Indians as to the proper care of forests, and to conduct such timber operations as may be deemed advisable and provided for by law, one hundred thousand dollars.

There is an express provision of the statute appropriating money for the Indian Office of the Interior Department exclusively.

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. Now, could they use any part of that appropriation for employees of another department?

Mr. PINCHOT. So I understand.

Mr. PEPPER. Mr. Pinchot, would you also answer, having answered the chairman's inquiry, also specifically, Senator Sutherland's question?

Mr. PINCHOT. Very gladly. I will call your attention to the part of the record, being the letter which you just read:

To perform duties which are not connected with the department from which detailed, and the payment of his salary from appropriations for, or moneys under the control of, the department to which detail is authorized.

The duties which the Forest Service was performing for the Indian Office were duties which it had specific authority of law to perform by anybody who was directly connected with its work.

Mr. PEPPER. What was the subject-matter which was before the comptroller when that opinion was given? Had it relation to services rendered by foresters on forests errands, or had it reference to clerical services performed by a clerk in a department other than the department in which he was employed?

Mr. PINCHOT. It related to the latter.

Senator SUTHERLAND. Mr. Pinchot, I want to get this straightened out in my own mind. Was not the precise question that was submitted to the comptroller, as to whether or not this cooperative agreement, of which you are speaking, was a valid agreement?

Mr. PINCHOT. No, sir.

Senator SUTHERLAND. Then I do not understand it.

Mr. PINCHOT. The question was whether a clerk could be transferred from our office to the Indian Office to perform certain duties there. After this decision of September 3 had been rendered the payment of vouchers under the agreement went on exactly as it had gone on before by men who are absolutely governed by the comptroller's decision. The auditor went on approving our accounts exactly as had been done before after this opinion had been rendered.

Mr. PEPPER. Are you referring now to the approval of accounts subsequent to that opinion?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. In cases where the services paid for were forest services rendered by various officers working for the Indian Department.

Mr. PINCHOT. In the field, presumably.

Mr. PEPPER. But of course the comptroller's opinion put a stop to the practice of employing one for clerical service, if the practice ever existed.

Mr. PINCHOT. The practice did not exist before the clerk went over, as I recall it. The question was put up to the comptroller to see whether it was right. We had no doubt whatever as to the legality of the work in the field that we were doing, but we had a doubt as to whether we could send a clerk over to the Indian Office, as described in this letter of the comptroller, so we asked him.

Mr. PEPPER. In point of fact, when the President's letter came down, making its reference to a controlling decision on this point, did you have any conversation with Mr. Valentine on the subject, or address any questions to him?

Mr. PINCHOT. I wrote a letter to Mr. Valentine asking him whether he had been aware of any comptroller's decision which put an end to the cooperative agreement, and I got a reply from him, as near as I can recollect it, to the effect that he did not, and I believe that letter is in existence.

Mr. PEPPER. And the Mr. Valentine to whom you refer—

Mr. PINCHOT. He is Commissioner of Indian Affairs.

Mr. PEPPER. Well, finally, as I understand it, in July this cooperative agreement was in fact terminated?

Mr. PINCHOT. It was.

Mr. PEPPER. Did you make any report on that subject to the Secretary of Agriculture?

Mr. PINCHOT. I took occasion on the termination of that agreement to report to the Secretary at some length exactly what we had done under the agreement, and to call his attention to the fact that it was perfectly within the sphere of the Secretary of the Interior to terminate the agreement at any time he chose, and that in reply to his request for such help as we could give we would do the best we could under the circumstances, which were, however, not favorable for effective work.

Mr. PEPPER. Are you summarizing a letter which exists and is available?

Mr. PINCHOT. The letter is here, or a copy of the letter, unless I am mistaken.

Mr. PEPPER. If you can lay your hand on it, will you just read it to the committee as a summary of the situation under inquiry?

Mr. DENBY. Mr. Pinchot, before you read that letter, was there any doubt in your mind that this decision, copied on page 95, of the comptroller was the decision to which the President referred?

Mr. PINCHOT. I was familiar with his decision, but I do not know whether he referred to that or whether to something else. It was so clear to me that this was not the decision that the question arose in my mind as to whether there could be some other.

Senator SUTHERLAND. You think, Mr. Pinchot, then, that the comptroller's opinion only goes to the employment of the clerk; that is, to that phase of the agreement, and not to the agreement as a whole?

Mr. PINCHOT. Unless that is so, I do not see how our accounts could have been paid after this decision was made.

Senator SUTHERLAND. I call your attention to the letter of the comptroller in which he recites the agreement and states as follows:

Under a cooperative agreement existing between the Bureau of Forestry and the Office of Indian Affairs affecting the cutting of timber and other matters pertaining to forestry on various Indian reservations, the expenses incurred in the prosecution of such work by the said bureau are paid by the Indian Office from funds belonging to the Indian tribes for whose benefit the work is performed.

Now, he has thus far recited the agreement.

Mr. PINCHOT. Yes, sir.

Senator SUTHERLAND. The cooperative agreement to which you have referred, as I understand. Now he goes on:

It is now deemed necessary by the Forester and the Commissioner of Indian Affairs to detail a clerk from the Forestry Bureau for duty in the Indian Office, in order that the work there may have the supervision of one who is thoroughly familiar with its technical details, his salary to be paid by a disbursing officer of this department from funds belonging to the Indians, and apportioned, as far as possible, among the different tribes in accordance with the amount of work performed for each.

Indicating that this action is taken under the agreement, "It is now deemed necessary by the Forester," presumably in pursuance of this agreement to which this one particular thing relates. Then he says:

Before proceeding as indicated, I should like to have from you a decision as to whether or not there is any legal obstacle in the way of such an arrangement.

Then he goes on——

Mr. PINCHOT. There were a great many things that we could not do under the agreement, as well as a great many that we could have done. This was one of the things that we could not do.

Senator SUTHERLAND. He concludes in his opinion by saying:

For the above reason your question is answered that there is legal objection to the proposed arrangement of which you speak.

Mr. PINCHOT. Yes, sir; the proposed arrangement for the transfer of that clerk.

Senator SUTHERLAND. Well, that was because——

Mr. PEPPER. If you will pardon me, Senator, may I ask this question? Mr. Pinchot, would this express your thought, that the point decided by the comptroller was that a certain transfer therein specified was not a legal transfer, and if within the terms of the Indian cooperative agreement was unlawful and not, of course, justified by that agreement?

Mr. PINCHOT. Perfectly. We had this thing in mind. It would have been of advantage if we could have done legally our work. We found that it could not be done, but it did not make any difference what I thought about it or anybody else thought about it except the comptroller, as long as he kept on paying the accounts under the agreement after this opinion had been rendered; that settled it, as far as any of us were concerned.

Mr. MADISON. Let me see if I understand the situation correctly. There was certain forest work that had to be done each year on the Indian reservation.

Mr. PINCHOT. Yes, sir.

Mr. MADISON. And Congress each year made appropriations for the performance of that work?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. Giving the appropriation to the Indian Bureau?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. You had a force equipped to do that work?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. You did not loan your men to the Indian Bureau, but you, in fact, went ahead and did the work, and in plain, common parlance the Indian Bureau then, in effect, paid you for doing it?

Mr. PINCHOT. Certainly.

Mr. MADISON. They just simply used you as a means to an end?

Mr. PINCHOT. Exactly.

Mr. MADISON. Now, in this decision, as I understand it, that is made by the comptroller, an altogether different situation, according to your view, appeared; in other words, you had a clerk in your bureau that it was proposed to send over to the Indian Bureau to do work in that bureau connected with the Indian Bureau's work?

Mr. PINCHOT. Exactly.

Mr. GLAVIS. They were going to pay one of your clerks from their appropriation to do their work over there.

Mr. PINCHOT. And they could not do it.

Mr. MADISON. It was making a transfer of an employee of your bureau over to the Indian Bureau.

Mr. PINCHOT. Yes, sir.

Mr. MADISON. Whereas under the agreement as it had been previously carried out there was no transfer of the employees, you simply went ahead and did the work under your own direction—your direction as Forester—you went ahead and did the work, and the Indian Bureau paid you for the performance of that work as they might have employed somebody on the outside to have done it. Is that correct?

Mr. PINCHOT. That is correct; and there is a specific decision of the comptroller covering just exactly that point, which is found on page 92 of the Senate Document 248.

Senator SUTHERLAND. Now, Mr. Pinchot, I want to get at this matter. What difference did you see between the case where the clerk was sent into the Indian Bureau to do work of the Indian Bureau, to be paid from the Indian Bureau fund, and sending an employee to the Indian service, which is just as much under the control of the Indian Bureau, and doing the work on the Indian reservation?

Mr. PINCHOT. May I read this decision of the comptroller which seems to cover that point. It is on page 92.

Mr. PEPPER. Before you read it, may I ask just this question. In the case of the transfer of the clerk, under whose direction did the clerk work when transferred?

Mr. PINCHOT. Under the direction of the Commissioner of Indian Affairs.

Mr. PEPPER. In the case of service performed by the forest officers, on Indian reservations under the cooperative agreement, whose orders did the forest officers work under?

Mr. PINCHOT. Under the Forester's orders.

Mr. PEPPER. Is that so provided for in the agreement?

Mr. PINCHOT. It is so provided for in the agreement.

Mr. MADISON. That was an answer directly to my question.

Mr. McCALL. Why does that not operate as a transfer of the appropriation from the Indian Service to the Forestry Service? You say they made the appropriation for the Indian Service.

Mr. PINCHOT. I am about to read you what the comptroller says on that very point:

It has been the departmental practice for a great number of years—in fact for such a length of time that this practice has the force of affirmative law unless clearly in conflict with law—for the head of one executive department, at the request of the head of another, to detail officers, clerks, and employees in his department to perform certain services for the benefit and use of another department where the law does not

specifically provide that such officers, clerks, or employees shall be exclusively engaged on the work for which they are specifically appropriated, such detailed officers, clerks, or employees while on such detail to be under the direction and control of the head of the department detailing them; * * * the latter to be reimbursed from the appropriation which would be available if the services had been performed by the officers, clerks, or employees of the department for whose use and benefit such detail is made.

Then he goes on to say—

Mr. OLMSTED. What is the date of that opinion?

Mr. GRAHAM. It is July 1, 1909.

Mr. PINCHOT. No; this is another one.

Mr. OLMSTED. I mean the one he has just read.

Mr. PINCHOT. It was June 6, 1907, as I remember.

Mr. DENBY. Is that forestry work a necessary part of the work of the Indian Department per se?

Mr. PINCHOT. Yes, sir.

Mr. DENBY. Was it in contemplation by Congress when the appropriation was made that any portion of it should be used by the Forestry Bureau?

Mr. PINCHOT. No, sir; but the Indian Office has control of it, from twelve to fifteen million, because of the timber land, and has been handling them for many years, more or less successfully, and the arrangement under this contract was made in order to bring trained men of the Forest Service, as indicated in the President's letter, into the work, and thereby to do it better.

Senator SUTHERLAND. But, Mr. Pinchot, the opinion that you have last read is cited in the memorandum submitting the question to the then comptroller, was it not?

Mr. PINCHOT. No, sir; it is a memorandum prepared, as I believe, in the Indian Office and favorable to the cooperative agreement.

Senator SUTHERLAND. Yes, but it is a brief; it is an opinion quoted in the brief.

Mr. PINCHOT. I do not think it is a brief. It says, "Memorandum prepared in the Indian Office in regard to 'cooperative plan' with Forest Service." Do you refer to the brief that was submitted?

Senator SUTHERLAND. The brief submitted to the comptroller.

Mr. PINCHOT. No, sir; it never went to the Indian Office.

Mr. OLMSTED. What you are reading is part of the document on page 91 and entitled "Memorandum prepared in the Indian Office," etc.

Mr. GRAHAM. And the paragraph just before that one read tells where it is taken from and says "in a decision found in 14 Decisions of the Comptroller, 294, it was decided that the Secretary of the Treasury," etc., might so and so, and then it gives this quotation from that decision by the comptroller.

Mr. DENBY. He is quoting a prior decision. That is not a decision direct; that was made at this time in view of this state of facts, or upon this state of facts.

Mr. GRAHAM. No, but one made by the comptroller.

Mr. DENBY. It is a quotation made from a decision by the comptroller in a brief made by another man. It is not a decision in point at all. It is a decision directly in point, but not a decision made in contemplation of this state of facts nor intended to cover them.

Mr. PINCHOT. I know of no decision that was made. There was no decision directly made to cover precisely the same state of facts.

Mr. OLMSTED. Can you tell me who Mr. Finney is?

Mr. PINCHOT. Yes, sir; he is right here now.

Mr. OLMSTED. What is his official position?

Mr. PINCHOT. He is a law officer in the Interior Department.

Mr. OLMSTED. It occurs to me that there may be something in this proposition that for a number of years the appropriation for the Indian Bureau was made in a lump sum and they could do almost anything they pleased, but of late it has been a specific appropriation with specific items. I suggest that not from any examination of the appropriation laws, but from this memorandum prepared by Mr. Finney, appearing on page 93. He says:

MEMORANDUM PREPARED BY MR. FINNEY.

The care, cutting, and sale of timber on the Menominee Reservation authorized by act of March 28, 1908 (35 Stat., 51), has been for the past year conducted under the so-called cooperative agreement. Yesterday's letter did not make any change but continues the arrangement. The same arrangement is tacitly continued in the Cheyenne Reservation where cutting is in progress.

Any cooperation or use of forest-service men in other Indian reservations which may have been had in the past was under no specific appropriation to the Interior Department, but was a voluntary performance by the Forest Bureau, the men acting as supervisors, rangers, etc., being carried on the forest-service rolls and paid from the forest appropriation. In most instances an adjustment was later made through the presentation of a claim by the Forest Service for expense incurred, and the payment of that claim by the Indian Office, Department of the Interior. We now have a totally different situation, viz: A specific appropriation made by Congress, March 3, 1909, "To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to make investigations on Indian reservations, and take measures for the purpose of preserving living and growing timber, and removing dead timber, standing or fallen."

And then he says:

It is clear that this appropriation is to be used, controlled, and expended by the Interior Department, and I doubt the legality of using it to pay officers and men who, though on the rolls of the Indian Office, would, under the cooperative arrangement, be wholly under the control of another department.

In other words, his opinion seems to be based on a new state or condition of law, as I understand it.

Mr. PINCHOT. That is my understanding of this opinion of Mr. Finney's.

Senator ROOT. They appropriated certain sums to enable the Interior Department to do a particular work. The Interior Department has a certain range of authority in selecting the instrumentalities through which it will do that work, there being no law which prohibits its selecting an officer or an agent of the Forestry Bureau to do that work; the selection of that officer or agent to do the work has been deemed a proper exercise of the authority of the Interior Department in executing the law of Congress?

Mr. PINCHOT. So I understand.

Senator ROOT. It is quite a common thing among the different departments of the Government?

Mr. PINCHOT. Yes, sir.

Senator ROOT. Certainly something that is done in every department of the Government—it would be too much to say daily—but frequently every year, calling upon persons employed in other departments to do things it is thought they can do better than anybody else and to act merely as instrumentalities for the department.

charged with executing the law; and the money paid by reimbursement to the other department, or by substituting compensation instead of that of the other departments, is a use of money appropriated by Congress for a purpose for which Congress authorized it to be used.

Mr. PINCHOT. It seems to me so, Senator. It seems to me that is exactly what the comptroller says.

Senator SUTHERLAND. Here is a law which specifically makes an appropriation and directs that it be expended by the Interior Department, and instead of that being done the appropriation is expended by the Agricultural Department.

Mr. PINCHOT. It seems to me to be entirely covered by what Senator Root has just said.

Senator ROOR. They hire a man from the Agricultural Department to do the work instead of going out into the streets and getting some one.

Mr. PEPPER. Is it a fact, as you understand it, that the money appropriated for the Department of the Interior is expended under this agreement by anybody but the Department of the Interior?

Mr. PINCHOT. No; it simply hires out, as Senator Root says, hires the Forestry Service instead of hiring somebody else.

Mr. MADISON. I think Senator Root has made that so clear to everybody that it is just simply a waste of time to spend any more time on it, with all deference to Senator Sutherland; I don't mean to say he removes any doubt in his mind, but that position is made clear by that statement of Senator Root's.

Mr. PEPPER. In addition to what Judge Madison has said in expressions that I should not have dared to make, let me ask this question of facts with regard to whether or not the making of a decision by the comptroller in September, 1908, was or was not the inducing reason to the termination of the Indian cooperative contract in July, 1909?

Mr. PINCHOT. So far as I have ever known it had nothing whatever to do with it.

Mr. PEPPER. Now, you were going to give as a convenient summary of what took place under that cooperative agreement, and the circumstances under which it was terminated, the contents of a letter written by you in the way of an official report to the Secretary of Agriculture; will you be good enough to read that?

Mr. PINCHOT. I have it here [reading]:

JULY 23, 1909.

The SECRETARY OF AGRICULTURE.

SIR: I have the honor to acknowledge the receipt by reference of letters to you of July 17 and July 20 from the Acting Secretary of the Interior, transmitting copies of his letters of July 17 and 19 to the Commissioner of Indian Affairs, and terminating the cooperation under the approved plan for cooperation between this service and the Indian Office in the protection of forests on Indian reservations and in the sale of timber and the supervision of logging upon them, on the ground that this cooperation is in contravention of law and of well-settled principles. The letters also ask for cooperation from the Forest Service in an advisory capacity.

In accordance with the decision of the Acting Secretary of the Interior, this service will immediately transfer to the Indian Office all forest work on Indian reservations now under its direction. Such advice and assistance as the Forest Service may be able to render along the line suggested will, with your approval, be cheerfully given.

It becomes my duty to report to you the essential features of the work done by the Forest Service on Indian reservations, which is now brought to a close:

Prior to the approval by you and by Secretary Garfield on January 22, 1908, of the plan for cooperation between the Forest Service and the Indian Office, whose applica-

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tion is terminated by the decision of the Acting Secretary of the Interior, this service had been cooperating in an advisory capacity with reference to Indian forest matters. This cooperation failed entirely to accomplish satisfactory results. It could not do otherwise, because it laid the responsibility for carrying out the recommendations of this service upon untrained men, who were therefore necessarily incompetent in forest matters. The result was that at the instance of Mr. Leupp, then commissioner, and Mr. Valentine, then secretary to the Commissioner of Indian Affairs, and after several conferences between these gentlemen and myself, the plan for cooperation was drawn up. This plan, as approved by you and by Secretary Garfield, was based on the joint experience of the two bureaus, and specifically provided that the Forest Service should undertake:

"PURPOSE.

"1. The sale of timber and the supervision of logging on Indian reservations, under methods which will improve the forest and yield the full market value of all timber cut.

"2. The protection of all forests on Indian reservations, whether they are now being cut over or not.

"3. A study of the forests on Indian reservations to determine the best permanent use of the lands upon which they grow; and where these are more valuable for forest purposes than for any other, the preparation and application of plans for their management."

It further provided:

"CONDITIONS.

"1. That the salaries and expenses of all men actually employed to carry out this cooperative agreement, and all necessary expenses for equipment and supplies, shall be borne by the Indian Office.

"2. That all men so employed and all those already employed in forest work on Indian reservations shall constitute a part of the force of the Forest Service, responsible directly and only thereto.

"3. That in the employment of Indian labor, in keeping liquor away from the Indians and in other essential ways the Forest Service will apply in the administration of forest matters the policies of the Indian Office for the welfare of the Indians, but that work in the woods under policies agreed upon by the Indian Office and the Forest Service shall be planned, initiated, and conducted wholly by officers of the Forest Service."

The plan for cooperation thus entrusted to the Forest Service the handling of forest matters upon Indian reservations under policies for the administration of Indian matters prescribed by the Indian Office, the salaries and other expenses of the work being borne by the latter.

This, gentlemen, is about a year and a half after the agreement went into effect. This is what we did in a year and a half:

I. SALE OF TIMBER AND SUPERVISION OF LOGGING.

During the past logging season the Forest Service, under clause 1 of the statement of purpose of the plan of cooperation, has supervised timber sales or logging, or both, on the Bad River, Red Lake, Grand Portage, Lac Courte Oreille, Lac du Flambeau, Leech Lake, Northern Cheyenne, Flathead, Klamath, Pine Ridge, Rosebud, San Carlos, and Menominee Indian reservations.

On the Bad River Reservation the Forest Service handled what was probably the largest single logging operation ever carried out in the United States. The logs were scaled by 31 scalers, whose scale was checked by three inspectors. The total cut made on this reservation under the supervision of the Forest Service amounts to about 170,000,000 feet. During these operations there were at one time under the direction of the service 900 men burning slash resulting from the logging, as a precaution against fire.

This service supervised last winter the logging of about 3,000,000 feet of fire-killed timber on the Red Lake Reservation, for which the Indians received over \$25,000. Complete reports have not yet been received of last winter's cut on the Grand Portage, Lac Courte Oreille, Lac du Flambeau, and Leech Lake reservations. The information at hand indicates that the total cut on these reservations will be about 10,000,000 feet.

After an examination by this service contracts have just been closed for the sale of fire-killed timber on 16 allotments under the Leech Lake Agency. These contracts

provide that an officer of the Forest Service shall supervise the cutting. Under the decision of the Acting Secretary of the Interior, this provision can not be carried out.

Logging rules for the sale of approximately 20,000,000 feet of wind-thrown timber on the Northern Cheyenne Reservation were drawn up by this service and recently approved by the Department of the Interior. This timber is now being advertised for sale. The form of contract provides for supervision of the logging by an officer of the Forest Service. Under the decision of the Acting Secretary of the Interior, this provision can not be carried out.

Logging rules for the sale of dead, down, and insect-infested timber on both allotted and unallotted land within the Flathead Indian Reservation were recently drawn up by the service and approved by the Department of the Interior. One sale of approximately 2,000,000 feet, and another of less amount, are now pending. The form of contract provides for supervision of these sales by an officer of the Forest Service. Under the decision of the Acting Secretary of the Interior this provision can not be carried out.

On the Klamath, Pine Ridge, Rosebud, and San Carlos reservations the Forest Service has supervised cuttings made by Indians. Formerly the Indians on the Klamath Reservation were in the habit of selecting any trees which suited them, taking what timber they wanted, and leaving the rest. Very valuable trees were often cut to obtain a little timber for which inferior trees would have served equally well. The tops were not trimmed nor the slash piled, burned, or otherwise disposed of as a safeguard against fire. This waste has been entirely stopped and without any hardship to the Indians. The necessary precautions have been enforced for the disposal of brush.

On the San Carlos Reservation no provision has been made for restocking the cut-over areas by leaving seed trees and only such logs were used as would make clear lumber. Cutting is now being done so as to provide adequately for the future of the forest and to eliminate unnecessary waste in logging.

When the service took charge of lumbering on the Menominee Indian Reservation, it found between 30,000,000 and 40,000,000 feet of logs cut, with practically no provision for their transport or manufacture. Much of the soft-wood timber, which would float well, and therefore should be transported to mill by water, had been banked far from any stream. Much of the hard-wood timber, too heavy to float well and which should be transported by rail, was found either mixed indiscriminately with the soft-wood timber or in the bed of an unimproved stream, or in rollways so built as to be exceedingly costly and dangerous to break. As the result, loss of about one-third in the value of the timber before it could be gotten to mill was made unavoidable. The logging had been wasteful of timber and destructive to the forest. The Indian agent had brought serious loss upon the Indians by selling timber for much less than its actual value, and by letting contracts for logging at excessively high rates. He has since been removed.

The superintendent of logging on the same reservation had permitted violations of almost every important provision of the logging contracts. These contracts were so drawn that they necessarily involved great loss to the Indians. The superintendent of logging had officially approved work done by contractors which was in flagrant violation of the contracts themselves, and has allowed full scale for unsound logs. He has since been removed.

As the result of failure by those to whom the interests of the Indians were intrusted to get the full value of their timber, the task of the Forest Service in adjusting the contractors' claims was one of the most difficult undertaken upon the Menominee. The service investigated the claims, checked the scale, inspected work done in the woods, and recommended settlement with the contractors on the basis of full payment for good work, reduced payment for bad work, and no payment for work undone. The contractors were settled with accordingly.

Since the Forest Service took charge of lumbering on the Menominee in March, 1908, it has, in addition to the work already outlined, accomplished the following main results:

The construction of a modern sawmill with two band saws, a horizontal resaw, and lath, picket, and shingle machines, was begun in June, 1908. The mill was sawing lumber by January 15, 1909, and by March 15 was running with a full force on day and night shifts. A large hot pond for handling logs in winter when the stream is frozen was also constructed in time for use last winter. Other necessary equipment of the sawmill is ready and in use, and the mill is operating and complete in all its parts.

At Neopit, where the sawmill is located, the service has constructed and has now in use a large central warehouse for supplies needed there and for distribution to construction and logging camps; a boarding house for sawmill employees accommodating

200 men; and the necessary dwellings for the superintendent and his foreman employed in the mill and in the woods. An office has been built, and a complete sewerage system has been installed. The Indians employed in work in the mill and in the woods or engaged in private business incident thereto have also built many houses for themselves.

The Forest Service found that the streams needed to drive logs cut on the Menominee Reservation were either entirely unimproved or so poorly improved as to be useless for driving purposes. It has improved about 25 miles of these streams, which are now being used as the chief means of bringing logs to the mill. The work was heavy, in one instance requiring the blasting of a rock channel one-quarter of a mile long. In several swamps it was necessary to construct long wing dams in order to confine the streams. The stream improvement required the construction of one large storage dam and two splash dams and the reconstruction of three dams built before the service took charge. The new storage dam at Neopit is 466 feet long, gives a 12-foot head of water, forms the storage pond for the mill, and furnishes water power for lighting the town at Neopit and the sawmill by electricity.

Upon the initiative of the Forest Service the Wisconsin and Northern Railroad has constructed a branch logging railroad for transporting logs cut upon the reservation to Neopit. This branch line is 12 miles long, not including several spurs built by this service.

The logging operations on the Menominee Reservation required the immediate building of a good tote road from Neopit to the west line of the reservation, a distance of about 12 miles. This road is now used for transporting supplies to the camp. Previously no road existed, except a mere trail through the woods, used mainly by the Indians going to and from the agency.

The Forest Service has constructed upon the Menominee about 28 miles of telephone lines, with 12 instruments, connecting the camps and dams. This line has proved invaluable as an aid in fire protection, and in logging and river driving.

The number of Indians employed on the Menominee increased from 68 in May, 1908, to 317 in May, 1909. The Indians were given preference over white men for employment, and any Indian on the Menominee willing to work had no reason to be without it. The results of steady and profitable employment to the Indians themselves have been admirable. Several of them occupy positions of considerable responsibility, such as time clerk, warehouse clerk, engineer in charge of a gasoline log loader, and assistant engineer in the mill. One of the river driving crews consisted of 38 men, all of whom were Indians except the foreman, and whose work compared favorably with that of white crews.

The disposal of the Indians' lumber sawed in the Menominee mill has been greatly hampered by failure to approve promptly the necessary business regulations governing sales. Long before any large quantity of lumber had accumulated at the mill, draft of regulations was submitted to the Department of the Interior to govern the sales of lumber. These regulations were returned so modified as to render profitable sales impossible, as a trial sale fully demonstrated. After further representations regulations reasonably favorable were finally approved, but approval was delayed nearly two months.

On several other reservations timber was marked for conservative cutting. Directions were given as to the establishment and removal of sawmills, and methods prescribed for handling timber matters, so as to insure the greatest permanent benefit to the Indians. The employment of Indian labor generally in the woods has greatly increased under the supervision of this service.

On every Indian reservation, except the Bad River, upon which the Forest Service has inspected or directed timber work, it was found necessary to change the method of logging completely, so as to secure full utilization of commercial timber, the saving of the forest from fire, and its perpetuation by natural reproduction. Important changes in personnel were found to be necessary.

2. PROTECTION OF INDIAN RESERVATIONS FROM FIRE.

This work comprised the organization by the Forest Service of fire patrol upon six Indian reservations—the Coeur d'Alene, Klamath, Menominee, Pine Ridge, Rosebud, and San Carlos. These were the only Indian reservations for which the necessary funds were allotted by the Department of the Interior for maintaining a protective force.

The results attained by the fire patrol organized upon these reservations and the conditions existing before it was organized are as follows:

Coeur d'Alene.—At the time the Forest Service established a protective force on this reservation a forest fire was burning with a front 6 miles wide. It was fought

a remote and difficult country for thirty-six days by a daily average of 46 men. This fire would not have gotten started had an efficient protective force been patrolling the reservation. The cost of extinguishing it (\$6,400) was greatly increased by the necessity of constructing trails over which to bring in men and supplies. About 250,000,000 feet of timber was saved, worth about \$500,000, which otherwise would have burned.

Klamath.—The protective force extinguished seven forest fires last season on the Klamath Indian Reservation. These fires covered a total area of 76,520 acres and destroyed about 105,000,000 feet b. m. of timber, worth approximately \$210,000. Had funds to organize an efficient fire patrol been made available in June, when the fires started, as was repeatedly urged, this loss would have been avoided. The total cost of extinguishing the fires was \$701.10.

It is difficult to estimate how great the damage would have been had not the fires on the Klamath been put out. They would have burned until extinguished by natural causes. Since practically no rain fell until October, they would have had over three months in which to burn, and the loss would have been many times as large as it was.

Menominee.—Forest fires did more damage in the Lake States in the fire season of 1908 than for many years, and especially heavy loss was incurred in Wisconsin. Upon the Menominee Reservation, with its 10 townships of valuable timber in the midst of a forest region which suffered exceptionally heavy injury, no important fire damage was done. Destructive fires raged on all sides of the reservation. The protective force fought and kept back every fire which came dangerously near the reservation line and put out every fire within the reservation while it was still small. With nearly a thousand men at construction work in 9 camps and at Neopit, with 300 men more in railroad camps at work upon the right of way of the Wisconsin and Northern, and with the forest so dry that the leaves began to fall before frost, fires broke out constantly. At one time 500 men were fighting fire. The report of a fire near a camp was notice to drop all other work until it was put out. Patrolmen constantly rode the lines of the reservation, and the telephone lines which had been installed made it possible to get into speedy communication with camps whenever help was needed. The result was that less than half a section was burned over, although 50 fires were put out. The total cost of fire fighting was \$7,980.27. Most of this was spent in fighting fires which endangered the reservation, but were still outside.

The practical elimination of damage by forest fires on the Menominee Reservation was unprecedented. The reservation contains approximately one and three-quarter billion feet of timber, worth about \$10,500,000, all of which would have been seriously endangered and much of it destroyed, except for the work of the protective force.

Pine Ridge.—In the spring of 1908, just before the organization of a protective force, forest fires destroyed timber worth about \$100,000. Since the organization of the patrol, the damage has been entirely insignificant.

Rosebud.—Forest fires have heretofore been frequent. Since the organization of a fire patrol there have been no fires.

San Carlos.—Since the organization of a fire patrol no forest fires have been reported. Destructive forest fires were formerly frequent and damage was done every year.

Before the application of the plan for cooperation there was no efficient fire patrol on any Indian reservation. Since its application the Forest Service has accomplished the results outlined above. The plan for cooperation provided that the Forest Service should give adequate fire protection to all Indian reservations, and detailed estimates and preparations for this work had been made. But except for the six reservations above mentioned, the Department of the Interior has failed to notify the Forest Service of the allotment of the necessary funds. An appropriation of \$100,000 has since July 1 been available in the Department of the Interior for protecting this timber, \$10,000 of which became available on March 3 upon the passage of the act.

Detailed estimates were presented to the Department of the Interior on April 15 and 24 for the protection of Indian reservations from fire during the present fire season, and the allotment of the necessary funds in accordance with the plan of cooperation was requested. Renewed requests were made for the allotment of these funds as the fire season approached. On July 9 the Department of the Interior was notified that forest fires were burning on Indian reservations, notably on the Yakima Indian Reservation, in Washington, and that the failure to allot the necessary funds immediately might involve great loss to the Indians. The Forest Service has not been advised of the allotment of the necessary funds.

3. STUDIES TO DETERMINE THE BEST USE OF INDIAN TIMBER.

Under clause 3 of the statement of purpose of the plan for cooperation, studies were made on the Cœur d'Alene, Flathead, Hoopa Valley, Klamath, Leech Lake, Nez Perce, Northern Cheyenne, Qualla, Red Lake, Siletz, and Spokane Indian

reservations and on lands in Oregon belonging to Absentee Wyandottes. The work done is briefly as follows:

Cœur d'Alene.—The area burned over by the forest fires of last fall was studied to find out whether the fire-killed timber could be sold. It was found that nearly all this timber was so badly burned as to be unmerchantable, and that what little remained was too difficult of access to be salable.

Flathead.—The dead and down timber on this reservation was examined and regulations were drawn up for its sale.

Hoopa Valley.—A detailed examination was made last summer as a basis for a plan for the conservative management of forests on this reservation. The forest maps made in connection with this work are the first reliable maps of the locality.

Klamath.—A study was made of the advisability of changing the location of the agency sawmill.

Leech Lake.—Fire-killed timber was examined, and regulations for its sale were drawn up.

Nez Perce.—A detailed study was made of the 32,000 acres of valuable timber land on this Indian timber reserve, and plans were prepared for their conservative management.

Northern Cheyenne.—A large body of wind-thrown timber was examined as a basis for sale and is now under advertisement.

Qualla.—A proposed sale by the tribe of 3,200 acres of timber land for \$20,959 was examined to determine whether this price was adequate. The timber land was found to be worth \$46,800, and as a result the sale for \$20,959 was disapproved.

On the same reservation a timber trespass committed by a lumber company was investigated, and settlement followed.

Red Lake.—A detailed study of the forests was begun in June, 1909. This study covers one of the most important bodies of pine timber in the Lake States.

Siletz.—A detailed study of the timber land was made as a basis for conservative management.

Spokane.—The need for erecting a sawmill was investigated, its character and location determined, and plans were prepared for logging Indian allotments.

Wyandottes.—An examination was made to determine the value of allotments made to Absentee Wyandotte Indians in Lake and Klamath counties, Oreg. The report showed the land with the timber to be worth \$20 per acre, instead of the value of \$8 previously placed upon it.

The plan for cooperation placed upon this service the direct responsibility, so far as the necessary funds were provided by the Department of the Interior, for the protection and conservation of forests on Indian reservations. These forests cover 12,000,000 acres and contain timber worth \$75,000,000. The decision of the Acting Secretary of the Interior now relieves the Forest Service and places this responsibility upon the Indian Office.

This service desires to record its obligations to Mr. Leupp, the former, and to Mr. Valentine, the present, Commissioner of Indian Affairs, for earnest cooperation and assistance. To Mr. Valentine is mainly due the existence of the plan for cooperation as a whole, and he has given to its application, first as secretary to the commissioner then as assistant commissioner, and later as commissioner, his vigorous and consistent support.

I note the suggestion that the Department of the Interior should still be enabled to avail itself of the knowledge and skill of the officers of the Forest Service. One of the duties of this service is to advise forest owners how to handle their holdings under the principles of practical forestry. The service will be prepared, so far as may be consistent with the performance of other duties intrusted to it, to advise regarding the care of forests within Indian reservations. It should be noted at the outset, however, that the absence of men in the Indian Office technically qualified to carry out the advice given will necessarily deprive it of the greater part of its value. Since the decision of the Acting Secretary of the Interior forbids the direction of any phase of forest work on Indian reservations by the experts of the Forest Service, the responsibility for this work in all its parts will necessarily rest wholly upon the Department of the Interior.

Since the termination of the plan for cooperation is clearly within the discretion of the Department of the Interior, it would serve no useful purpose to discuss the legality of that plan. But, lest the Forest Service might be thought to have acted hastily in recommending the plan for cooperation to you for approval, I have the honor to note that its legality was fully considered in both departments at the time it was agreed upon; that the Auditor for the Department of the Interior has approved the accounts under it since cooperation began; and that similar cooperation between departments is now and has long been in existence.

I have the honor to transmit herewith a map showing the location of the Indian reservations herein referred to, and I shall transmit hereafter photographs illustrating important phases of the work described.

Very respectfully.

GIFFORD PINCHOT,
Forester.

Senator FLETCHER. I want to ask Mr. Pinchot who was the Acting Secretary of the Interior who abrogated this——

Mr. PINCHOT. Mr. Pierce.

Senator FLETCHER. The present Assistant Secretary?

Mr. PINCHOT. Yes, sir.

Senator FLETCHER. And the date of the communication?

Mr. PINCHOT. That is July 23, 1909.

Mr. PEPPER. Laying aside all personal questions those documents have given rise to, what is the situation here that requires speedy congressional attention? Is there a system such as the President describes as a wasteful duplication unless some action is taken in regard to the alleged illegality of agreements of this sort?

Mr. PINCHOT. The situation is simply this: Either there must be a duplicate organization constructed in the Indian Office to handle the forest matters, or else such provisions as may be required must be passed to enable the Forestry Service to do this work here as it did before.

Mr. PEPPER. And is it your thought that, apart from all personal considerations, it is a matter worthy of consideration by this committee as a matter of efficiency of administration?

Mr. PINCHOT. It is a very important matter indeed, it strikes me. It furnishes not only the actual value of the timber on the Indian reservations, but has a most important relation to the whole future of the Indian question as to whether they are to be given constant remunerative work by the proper handling of their forests, or whether the forests are to be stripped and the Indians left without anything on their own land.

Senator SUTHERLAND. You recognize, as being a part of the agreement which you had with the Interior Department, all men so employed and all those already employed in forestry work on Indian reservations shall constitute a part of the force of the Forestry Service, responsible directly and only thereto?

Mr. PINCHOT. Yes, sir.

Senator SUTHERLAND. And is not that the part of the agreement that was particularly emphasized by Assistant Secretary Pierce in holding that it was not a proper agreement and an unlawful agreement?

Mr. PINCHOT. I should have to refer again to his letter.

Senator SUTHERLAND. Namely, that work had been committed by an act of Congress to the Secretary of the Interior and this amounted to a delegation of that work to the Agricultural Department, because the instrument provides that the men so employed shall be responsible to the Forestry Service, which is a part of the Agricultural Department, responsible to that service directly, and only to that service, and not in any manner responsible to the Secretary of the Interior.

Mr. PINCHOT. It seems to me the matter is absolutely covered by what Senator Root has said,

Senator SUTHERLAND. I do not think it is absolutely covered. I agree with what he said, but this provision of the contract goes entirely beyond what Senator Root has said. That is the point I was undertaking to make.

Senator ROOT. What is your idea in what you have just said about the necessity for legislation as to the relation which should exist between the trained officers of the Forestry Bureau, dealing with forests, and the Interior Department, which is charged with the general care of the Indians?

Mr. PINCHOT. Senator, it seems to me to be very plain that—since we have already a force of men, trained men available in the Forest Service, many of them actually on the ground, because these Indian reservations adjoin the forest reservations in a good many cases and often are partially inclosed by them—it is a waste of government money or waste of Indian money, whichever it may be, in each case to reconstruct a separate organization to do the work for which we already have men on the ground, paid by government funds, and ready in most cases to do the additional work with comparatively little expense.

Senator ROOT. That I understand—that is quite apparent, it seems to me. But here is a department charged by law with the general care of the Indians. It acts as a kind of guardian for the Indians; the Indians are its wards. Now, here is a particular, specific piece of property of the Indians which you propose to have dealt with—I quite sympathize with that—by trained experts of the Forestry Bureau. What relation do you contemplate as existing between those experts that are dealing with this specific matter, one specific matter, affecting the wards of the Interior Department and the Interior Department?

Mr. PINCHOT. I might put it like this, Senator, that it would be very much as if the Interior Department had made a contract with the Forestry Service to do certain work; the men employed by the Forestry Service would then be responsible to the Forestry Service, but the Forestry Service would be responsible to the Indian Office which made the contract with it.

Senator ROOT. Then, your idea is that the Forestry Service would be under the general direction and control of the Interior Department as to that work?

Mr. PINCHOT. It is so specified in the agreement.

Senator ROOT. And that is what you think would be reasonable and lawful?

Mr. PINCHOT. I should think so. I am sure it would be effective in practice.

Mr. OLMSTED. In other words, that the Indian Department should be specifically authorized to negotiate or agree with the Forestry Department to perform specific services?

Mr. PINCHOT. Yes, sir; if necessary.

Mr. McCALL. Then there should be legislation providing for that?

Mr. PINCHOT. I don't think legislation is necessary.

The CHAIRMAN. You think it would have that power without additional legislation?

Mr. PINCHOT. I do.

The CHAIRMAN. I desire to give notice to counsel and to witnesses that the committee has decided to hold three sessions next week, namely, on Tuesday, Friday, and Saturday, and therefore the committee will stand adjourned until next Tuesday at 10 o'clock a. m.

(Accordingly, at 5.30 the committee adjourned until Tuesday, March 1, 1910, at 10 a. m.)

The CHAIRMAN. The record will show the following calls upon the Interior Department for the production of documents:

WASHINGTON, D. C., February 16, 1910.

D. KNUTE NELSON,
Chairman Joint Committee of Congress, Washington, D. C.

DEAR SIR: I beg leave to ask that the Secretary of the Interior be directed to produce to this committee the following papers:
.. Originals of letters of instruction given by Special Agent Glavis to Andrew Cunnedy and Special Agent Stoner, respecting the field examination of the Cunningham coal claims.

Yours truly,

LOUIS D. BRANDEIS.

WASHINGTON, D. C., February 18, 1910.

D. KNUTE NELSON,
*Chairman Joint Committee of Congress,
Washington, D. C.*

DEAR SIR: I beg leave to ask that the Secretary of the Interior be directed to produce to this committee the following papers:

1. Originals of letters of Miles C. Moore of May 22, 1909, and May 24, 1909, to Secretary Ballinger, and of March 17, 1908, to Commissioner Ballinger, and any other letters or telegrams from Miles C. Moore in the possession of the Secretary or the Land Office, or in his personal file, relating to Alaska coal lands.

Very respectfully,

LOUIS D. BRANDEIS.

WASHINGTON, D. C., February 19, 1910.

D. KNUTE NELSON,
*Chairman Joint Committee of Congress,
Washington, D. C.*

DEAR SIR: I beg leave to ask that the Secretary of the Interior be directed to produce to this committee the following papers:

1. Copy of letter of the President to Secretary Ballinger of August 13, 1909.

Yours, truly,

LOUIS D. BRANDEIS.

(On the Secretary of the Interior).

UNITED STATES SENATE,
Washington, D. C., February 21, 1910.

(1) Affidavit of Henry White, Los Angeles, Cal., taken before Special Agent Glavis, July, 1909, relating to the Green Group of Alaskan Coal Claimants.

KNUTE NELSON,
Chairman Joint Committee of Congress.

WASHINGTON, D. C., February 23, 1910.

D. KNUTE NELSON,
*Chairman Joint Committee of Congress,
Washington, D. C.*

DEAR SIR: I beg leave to ask that the Secretary of the Interior be directed to produce to this committee the following papers:

1. Letter of H. H. Schwartz to Special Agent Coulter, defining position of subordinates, written either in September or October, 1909.

Very respectfully,

LOUIS D. BRANDEIS.

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To the Hon. KNUTE NELSON, *Chairman, etc.*

SIR: On behalf of Mr. Pinchot, we request the committee to call for the production from the files of the Interior Department, either in the Reclamation Service or elsewhere, of all documents and correspondence relating to the conduct of the Chicago office of the Reclamation Service by Agent Perkins.

Respectfully,

G. W. PEPPER
N. A. SMYTH
(For Gifford Pinchot)

FEBRUARY 26, 1910.

The CHAIRMAN. The record will also show the following returns to calls of the committee for the production of documents:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 19, 1910.

Hon. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Referring to my letter of even date relative to paragraph 13, list of January 3, 1910, I transmit herewith the following papers:

(a) Book entitled "Glavis and Shaw."
(b) Book entitled "Affidavits relating to activities of Shaw and Glavis on insupportable charges against Interior Department."

(c) Copy of telegram from Schwartz to Colter, October 11, 1909; telegram from Colter to commissioner, October 13, 1909; copy of telegram from Schwartz to Colter, October 18, 1909; memorandum from Sheridan to Schwartz, October 31, 1909; telegram from Schwartz to Colter, November 11, 1909; carbon copy of letter from Colter to A. N. Winchel, November 12, 1909; letter from A. N. Winchel to Colter, November 15, 1909; letter from H. V. Winchel to Colter, November 23, 1909; carbon copy of letter from Colter to J. M. Dickey, November 24, 1909; letter from Colter to Schwartz, December 10, 1909.

Carbon copy of letter from Colter to J. L. Mathews, October 18, 1909; copy of telegram from Schwartz to Carr, October 18, 1909; telegram from Ballinger to Schwartz, October 17, 1909; copy of telegram from Schwartz to Carr, October 23, 1909; carbon copy of letter from Schwartz to Colter, November 19, 1909.

Very respectfully,

FRED DENNETT, *Commissioner*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., February 19, 1910.

Hon. KNUTE NELSON,
Chairman Joint Committee of Congress,
Washington, D. C.

SIR: In compliance with your request of the 17th instant for documents included in paragraphs 10, 14, and 15 of the accompanying list, I am sending you herewith from the files of this department, papers classified and jacketed as follows:

Jacket
No.

1. Letter of May 8, 1909, from Hon. James R. Garfield to the Forester.
2. Miscellaneous correspondence on the subject from the files of the Forestry Bureau, Washington, D. C.
3. Copies of correspondence between the Forest Service and L. F. Abbott, *Outlook*.
4. Procedure file in cooperation with the General Land Office. (This contains the record of procedure between the departments and contains several letters pertaining to the subjects in controversy.)
5. Briefs, memoranda, and original notes of Mr. Shaw, of the Forest Service relative to the matters in controversy (from the files of the Forest Service).
6. Newspaper clippings and miscellaneous documents from the files of the Forest Service.
7. Miscellaneous correspondence on the subject from the files of the Portland District of the Forest Service.

Is:

Volume 161, containing statistics of power sites, 1909, of the National Atlas on file in the Forest Service.

Three binders, containing exhibits and reports of hearing of coal cases.

I am informed by the Forest Service that the above are all the papers and documents, as shown by a thorough search of the files, relating to the Cunningham coal cases.

There are in this office papers, from the files of the Forest Service, pertaining to the cutting of timber by the Forest Service on Indian reservations, which will be forwarded to your committee upon request for same.

Very respectfully,

JAMES WILSON, *Secretary.*

THE SECRETARY OF THE INTERIOR,
Washington, February 19, 1910.

Hon. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: In accordance with direction of your committee, at request of Mr. Brandeis, I transmit herewith original letters addressed to me May 22 and May 24, 1909, by Mr. Miles C. Moore and "file" copies of my replies to said letters on May 24 and May 27, 1909.

Very respectfully,

R. A. BALLINGER, *Secretary.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 21, 1910.

Hon. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Complying with the request contained in your communication of January 29, 1910, I hand you herewith:

Paragraph 7. Letter from H. K. Love to L. R. Glavis, dated January 17, 1908, and letter from H. K. Love to L. R. Glavis, January 17, 1908, and letter from L. R. Glavis to H. K. Love, dated January 31, 1908.

Paragraph 8. Letter from Clarence Cunningham to the register and receiver, Juneau, dated March 12, 1907, containing the name and address of each coal-land claimant for whom Cunningham was agent, and letter from Clarence Cunningham to the register and receiver, Juneau, January 15, 1908.

Letters from register and receiver, Juneau, to commissioner, dated March 1, 1906, October 8, 1907, November 22, 1907, December 12, 1907, January 29, 1908; telegram from the receiver at Juneau to H. T. Jones, August 9, 1907, and telegram from the register and receiver at Juneau to commissioner, dated September 14, 1909.

The papers delivered to Special Agent Bowman in 1909 were delivered to the joint committee by Mr. Vertrees on February 14, 1910.

Very respectfully,

FRED DENNETT, *Commissioner.*

THE SECRETARY OF THE INTERIOR,
Washington, February 21, 1910.

Hon. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Supplementing my letter of February 19, 1910, I herewith inclose original letters addressed to me by Mr. Miles C. Moore, June 4, August 14, and September 16, 1909, and copies of my reply to the two letters last mentioned. No reply was made to the letter of June 4.

Very respectfully,

R. A. BALLINGER, *Secretary.*

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DEPARTMENT OF THE INTERIOR,
Washington, February 24, 1910.

HON. KNUTE NELSON,
Chairman of Joint Committee, Washington, D. C.

SIR: February 21, 1910, you made call upon me as follows:

"Figure 1. Affidavit of Harry White, of Los Angeles, Cal., taken before Special Agent Glavis, in July, 1909, relating to Green group of Alaska coal claimants."

I have to advise you that Chief of Field Division Christensen, of Portland, Oreg., arrived in this city last evening, bringing with him the affidavit in question, which is attached hereto and submitted in accordance with your request.

Very respectfully,

R. A. BALLINGER, *Secretary*

DEPARTMENT OF THE INTERIOR,
Washington, February 24, 1910.

MR. PAUL SLEMAN,
Secretary Joint Committee in Congress.

SIR: January 29, 1910, you called for various papers, personal and official, from the Interior Department and officials thereof. Your paragraph 13 is as follows:

"13. All letters and other communications between the General Land Office and S. J. Colter, and personal letter or telegram from H. H. Schwartz to Special Agent S. J. Colter, or from said S. J. Colter to H. H. Schwartz, in relation to Alaska coal land, or in relation to Glavis's so-called charges to the President."

February 19, 1910, you were advised as follows:

"I send to-day, by separate letter, correspondence between Messrs. Schwartz and Colter, in so far as now located."

I herewith transmit additional correspondence within the above designation located by Mr. Schwartz since my foregoing letter of the 19th instant was forwarded to you. The additional correspondence consists of:

Personal letter of October 19, Colter to Schwartz.

Personal letter of October 21, Colter to Schwartz.

Telegram of October 21, Colter to Schwartz (with translation).

Telegram of October 21, Schwartz to Colter.

Telegram of October 23, Schwartz to Colter (with translation).

Personal letter of October 26, Colter to Schwartz.

Letter of October 28, 1909, Schwartz to Colter.

Personal letter of November 9, Colter to Schwartz.

Personal letter of November 10, Colter to Schwartz.

October — (probably 19th) letter from Schwartz to Colter in reference to the charges filed with the President by Mr. Glavis and Bowman's alleged attitude in regard thereto.

This letter is dictated, for my signature, by Mr. Schwartz, and he advises me that he has recollection of an additional pen-written letter from Mr. Colter, advising of his interview with the Misses Sheetz in Chicago; but Mr. Schwartz has been unable to locate the letter in question. The same was probably destroyed or mislaid at the time of its receipt.

This completes the correspondence called for under your paragraph 13, first above referred to.

Respectfully,

R. A. BALLINGER, *Secretary*

DEPARTMENT OF THE INTERIOR,
OFFICE OF FIRST ASSISTANT SECRETARY,
Washington, February 25, 1910.

MY DEAR SENATOR: In reading over the record in the Glavis case, I find that Joseph P. Cotton, jr., one of the counsel, made the following demand for papers: January 31, 1910:

"(16) All correspondence and telegrams from July 1, 1909, to date passing between Messrs. Ballinger, Pierce, Schwartz, Dennett, McEniry, Colter, or any of them."

I herewith inclose you all correspondence, as far as I can now recall or have any record, passing between Secretary Ballinger and myself after July 1, 1909, to wit:

July 13, 1909, letter, Pierce to Ballinger, re Oklahoma oil situation.

July 14, 1909, telegram, Pierce to Ballinger, re Porto Rican matters.

July 16, 1909, telegram, Pierce to Ballinger, re Porto Rican matters.

July 20, 1909, letter, Ballinger to Pierce, re Oklahoma oil situation.

July 20, 1909, letter, Pierce to Ballinger, re Porto Rican matters.
 July 21, 1909, letter, Pierce to Ballinger, re Porto Rican matters.
 July 23, 1909, telegram, Ballinger to Pierce, re assignments desert entries.
 July 24, 1909, telegram, Pierce to Ballinger, re assignments desert entries.
 July 25, 1909, letter, Ballinger to Pierce, miscellaneous.
 July 26, 1909, letter, Pierce to Ballinger, re Idaho preference right.
 July 30, 1909, letter, Pierce to Ballinger, assignments desert entries.
 July 31, 1909, letter, Pierce to Ballinger, re withdrawing lands for arid park.
 July 31, 1909, letter, Pierce to Ballinger, re Oklahoma matters.
 July 31, 1909, letter, Ballinger to Pierce, re Idaho preference right.
 August 2, 1909, letter, Pierce to Ballinger, re leave of absence.
 August 4, 1909, letter, Ballinger to Pierce, re desert-land circular.
 August 6, 1909, letter, Ballinger to Pierce, re withdrawal of lands for arid park.
 August 7, 1909, letter, Ballinger to Pierce, re Oklahoma cases.
 August 26, 1909, letter, Ballinger to Pierce, re Glavis and Alaska situation.
 September 20, 1909, letter, Ballinger to Pierce, re information to newspapers.
 October 7, 1909, letter, Pierce to Ballinger, re circular of Reclamation Service.
 October 16, 1909, letter, Ballinger to Pierce, re reclamation regulations.
 Most of this correspondence is absolutely foreign to the subject under investigation, and should not be made public. I, however, wish you to present the entire correspondence to Mr. Cotton and let him select such of it as he desires to use and let him return to you that which he does not wish. It seems to me it can be worked out satisfactorily with Mr. Cotton on these suggestions which I have made.

Very respectfully, yours,

FRANK PIERCE,
First Assistant Secretary

Hon. KNUTE NELSON,
Chairman Joint Committee of Investigation, United States Senate.

DEPARTMENT OF THE INTERIOR,
 GENERAL LAND OFFICE,
 Washington, D. C., February 26, 1910.

Hon. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Referring to my letter of February 19, 1910, relative to paragraph 14, list of papers called for February 1, 1910, I inclose herewith a letter dated February 19, 1910, from the receiver at Seattle, F. A. Twitchell, to Commissioner Dennett, and an inclosure, being an affidavit by Oscar Foote, sworn to February 19, 1910. I also inclose herewith the following letters called for in paragraph 8 in the list of January 29, 1910, which were received in the Land Office February 24, 1910, from Special Agent Christensen.

Affidavit of Miles C. Moore, dated April 10, 1907.
 Affidavit of W. H. Warner, dated April 18, 1907.
 Affidavit of W. W. Baker, dated April 29, 1907.
 Affidavit of Frederick Burbidge, dated May 1, 1907.
 Affidavit of Reginald C. Neill, dated May 2, 1907.
 Affidavit of Joseph H. Neill, dated January 10, 1907.
 Copy of letter from register at Juneau to Charles Sweeney, February 16, 1906.
 Copy of letter from register at Juneau to A. D. Jones, February 19, 1906.
 Copy of letter from register at Juneau to H. W. Collins, February 19, 1906.
 Copy of letter from register at Juneau to John Hartline, March 7, 1906.
 Copy of letter from register at Juneau to H. K. Love, March 3, 1906.
 Copy of letter from register at Juneau to A. W. Rochford, March 7, 1906.
 Copy of letter from register at Juneau to A. W. Rochford, March 9, 1906.
 Copy of letter from register at Juneau to Chas. S. Hubbel, November 16, 1906.
 Report from H. K. Love to register and receiver, Juneau, August 1, 1907.
 Letter from H. K. Love to register and receiver, Juneau, March 20, 1907.
 Letter from H. K. Love to register and receiver, Juneau, January 8, 1908.
 Copy of letter from register and receiver, Juneau, to Clarence Cunningham, January 1907, to which is attached the following memorandum:

"Similar letters verbatim except as to names, amount, and survey number were sent on same date to the other Cunningham claimants at their various addresses."

Copy of letter from register, Juneau, to Clarence Cunningham, April 19, 1907.

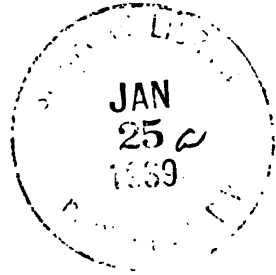
Copy of letter from register and receiver, Juneau, to Clarence Cunningham, July 27, 1907.

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Copy of letter from register and receiver, Juneau, to S. C. Chezum, July 27, 1907.
Copy of letter from register and receiver, Juneau, to W. W. Baker, November 2, 1907.
Copy of letter from register and receiver, Juneau, to W. W. Baker, December 2, 1907.
Copy of telegram from register and receiver, Juneau, to L. R. Glavis, May 11, 1909.
Copy of telegram from register and receiver, Juneau, to James M. Sheridan, November 24, 1909.
Copy of letter of H. K. Love to register and receiver, January 17, 1907, relative to Davidson claim.
Copy of letter of H. K. Love to register and receiver, January 17, 1907, relative to Henry White claim.
Copy of letter of H. K. Love to register and receiver, January 17, 1907, relative to Doneen claim.
Copy of letter of H. K. Love to register and receiver, January 18, 1907, relative to Jenkins claim.
Copy of letter of H. K. Love to register and receiver, January 18, 1907, relative to W. H. Collins claim.
Copy of letter of H. K. Love to register and receiver, January 19, 1907, relative to F. F. Johnson claim.
Copy of letter of H. K. Love to register and receiver, February 26, 1907, relative to Scofield claim.
Copy of letter of H. K. Love to register and receiver, December 31, 1906, relative to N. B. Nelson claim.
Copy of letter of H. K. Love to register and receiver, December 31, 1906, relative to Mullen claim.
Copy of letter of H. K. Love to register and receiver, December 31, 1906, relative to C. J. Smith claim.
Copy of letter of H. K. Love to register and receiver, December 31, 1906, relative to Henry claim.
Telegram from Clarence Cunningham to register at Juneau, January 19, 1907, on the back of which is written "No instructions. They will probably arrive by mail about the 30th."
Telegram from Clarence Cunningham to register, December 17, 1907, and on the back is written, "Entries will be refused. Money can be deposited unofficially pending appeal."
Telegram from Clarence Cunningham to register, December 13, 1906: On the back is written, "Send currency. The express rules of my office require it."
Telegram from Clarence Cunningham to register, March 2, 1906.
Copy of letter from receiver, Juneau, to F. C. Davidson, May 20, 1906.
Copy of letter from receiver, Juneau, to Michael Doneen, May 20, 1906.
Letter from G. R. Cunningham to register, Juneau, April 10, 1906.
Letter from Michael Doneen to receiver, Juneau, May 8, 1906.
Letter from D. C. Riblett to receiver, Juneau, dated January 11, 1906.
Letter from W. E. Miller to register and receiver, dated January 11, 1906.
Letter from John A. Finch to receiver, January 13, 1906.
Letter from W. H. Warner to receiver, October 25, 1907.
Letter from W. W. Baker to register, November 29, 1907.

Very respectfully,

FRED DENNETT, *Commissioner*



NO. 15

**HEARINGS BEFORE THE COMMITTEE TO INVESTIGATE THE
INTERIOR DEPARTMENT AND FORESTRY SERVICE**

MARCH 1, 1910

**ROOM 207, SENATE OFFICE BUILDING
WASHINGTON, D. C.**

MEMBERS OF THE JOINT COMMITTEE.

KNUTE NELSON, Minnesota, Chairman.

SAMUEL W. McCALL, Massachusetts, Vice-Chairman.

FRANK P. FLINT, California.

GEORGE SUTHERLAND, Utah.

ELIHU ROOT, New York.

WILLIAM E. PURCELL, North Dakota.

DUNCAN U. FLETCHER, Florida.

MARLIN E. OLMSTED, Pennsylvania.

EDWIN DENBY, Michigan.

E. H. MADISON, Kansas.

OLLIE M. JAMES, Kentucky.

JAMES M. GRAHAM, Illinois.

PAUL SLEMAN, Secretary.

TUESDAY, MARCH 1, 1910.

**JOINT COMMITTEE TO INVESTIGATE THE INTERIOR
DEPARTMENT AND FOREST SERVICE,
Washington, March 1, 1910.**

The Joint Committee to Investigate the Interior Department and Forest Service met, pursuant to adjournment, at 10 a. m.

Present, Senators Nelson (chairman), Flint, Sutherland, Root, Fletcher, and Purcell; Representatives McCall, Olmsted, Denby, Madison, James, and Graham; Mr. Paul Sleman, secretary; also Mr. Louis D. Brandeis and Mr. Joseph P. Cotton, jr., representing Mr. Louis R. Glavis; also Mr. George Wharton Pepper, representing Mr. Gifford Pinchot; also Messrs. John J. Vertrees and Carl Rasch, representing Secretary Ballinger; also Mr. E. C. Finney.

The CHAIRMAN. The committee will please come to order, and the examination will proceed.

Mr. PEPPER. Is it your pleasure that Mr. Pinchot shall take the chair, sir?

The CHAIRMAN. Yes.

TESTIMONY OF GIFFORD PINCHOT—Resumed.

Mr. PEPPER. Mr. Pinchot, at the last session you dealt in succession with the subject of water-power withdrawals, ranger-station withdrawals, and the Indian cooperative contract, and you reached in your narrative July, 1909. Will you please state what, if anything, in July, 1909, you came to know about the so-called Cunningham claims in the Alaska coal cases.

Mr. PINCHOT. During my absence from Washington a telegram was received from Mr. Glavis on July 16, as I recall it, asking the assistance of the Forest Service to postpone the hearings in the Cunningham cases.

Mr. PEPPER. You are referring now to telegrams that are already in evidence?

Mr. PINCHOT. Already in evidence.

Mr. PEPPER. And when did you first have personal knowledge of anything done in pursuance of those telegrams?

Mr. PINCHOT. I returned to Washington within a few days after the telegram was received, and was then told of the telegram and of a letter which had been written by the Secretary of Agriculture to the Secretary of the Interior asking for delay in fixing the date of the hearings until the forest-service officers at Portland, Oreg., could be heard from.

Mr. PEPPER. Had you or had you not, personally, anything to do with the sending of that first letter by the Forest Service or the request upon the Secretary of Agriculture from the Forest Service for the sending of that letter?

Mr. PINCHOT. That letter was sent during my absence, and I learned of it only after it had been forwarded; but when I learned what the men in the service had done I approved of that thoroughly.

Mr. PEPPER. And was there or was there not a second communication substantially the same, sir?

Mr. PINCHOT. There was a second communication addressed to the Secretary of the Interior, after the Portland office had been

heard from, and I do not recall whether I initialed that second letter or not before it was signed by the Secretary of Agriculture, but at any rate I approved of it.

Mr. PEPPER. Prior to July, 1909, what notice, so far as you know, had the Forest Service received of the pendency of these Alaska coal claims?

Mr. PINCHOT. So far as I was aware, none whatever, and so far as I am aware now.

Mr. PEPPER. Was there or was there not any reason why you should have received notice of those claims?

Mr. PINCHOT. There was a double reason. One reason is found in the letter addressed by the President to the Secretary of the Interior and to the Secretary of Agriculture—similar letters.

The CHAIRMAN. Are they in the record?

Mr. PINCHOT. In part; a quotation from the letter of the Secretary of the Interior is in the record.

Mr. PEPPER. Mr. Chairman, I refer to page 255 of Senate Document No. 248. At the end of the page you will see that the letter now referred to is quoted in part. I have what purports to be a copy of the whole letter, and with your permission I will hand it to the witness.

The CHAIRMAN. I would suggest that you put in the whole letter at this time.

Mr. PEPPER. Yes; I offer it in evidence.

The CHAIRMAN. It is admitted.

Senator FLETCHER. What is the date of that letter?

Mr. PEPPER. It is dated May 17, 1905.

Mr. McCALL. Where is that printed in full—is that printed in full?

Mr. PEPPER. I believe not, Mr. McCall. I think that extract at the bottom of page 255 is a complete statement of the contents of a letter which the President had theretofore sent to the Secretary of the Interior; then he wrote this letter to the Secretary of Agriculture quoting in extenso what he had said to the Secretary of the Interior. The only thing that this document contains is a paragraph ahead of the quotation and following it, but this will make the record complete.

The CHAIRMAN. If there is no objection it is admitted.

Mr. PEPPER. Now, Mr. Pinchot, will you state what was the occasion for the writing of this letter; what was the situation that gave rise to it?

Mr. PINCHOT. The situation that gave rise to it was the transfer of the charge of the National Forest from the Department of the Interior to the Department of Agriculture, under a bill which left the care of the disposal of title to the Interior Department and the management of the lands to the Agricultural Department, and in order to secure complete cooperation between the two departments in the interests of the Government, this letter was written.

Mr. PEPPER. Will you be good enough to read it?

Mr. PINCHOT (reading):

MAY 17, 1905.

The honorable the SECRETARY OF AGRICULTURE.

DEAR MR. SECRETARY: I have just written to the Secretary of the Interior as follows:

"In deciding any question relating to rights of way within forest reserves, I want to have you refer to the Secretary of Agriculture all questions of fact and accept his findings with regard to such facts. The Secretary of Agriculture has special facilities

for getting at the real situation on the ground as to settlement, etc., in the forest reserves. Therefore I want you also to require local land officers to refer all claims, applications for mineral entry, and final proofs for land within forest reserves to you before taking any action which could give the applicant a disposable title to the land in order that the Secretary of Agriculture may have the opportunity of presenting to you any facts or arguments bearing on the claim. All valid claims affecting forest-reserve land must, of course, be allowed when properly proven; but full force should be given to the testimony and arguments of the Secretary of Agriculture, who, as the direct administrative officer of the reserves, will be seriously affected by your decision.

"I would like to have you use special care to report to the Secretary of Agriculture any action taken in your department affecting him in the administration of the forest reserves. The situation calls for the fullest cooperation between your departments in your respective powers and duties over forest reserves and forest-reserve lands."

I would like to have you return findings of fact without delay in all cases referred to you by the Secretary of the Interior and take prompt action in all cases of claims or contests with regard to land within forest reserves.

Please do not fail to report to the Secretary of the Interior every action taken in your department which affects him in the administration of the public lands. The situation calls for the fullest cooperation between your departments in your respective powers and duties over forest reserves and forest-reserve lands.

Sincerely,

THEODORE ROOSEVELT, *President.*

The CHAIRMAN. What is the date of that letter, please?

Mr. PINCHOT. It is dated May 17, 1905.

Mr. PEPPER. Now, Mr. Pinchot, is it or is it not a fact that in Chugach forest, as extended, some of these Cunningham claims are located?

Mr. PINCHOT. The information at the time you are speaking of in July, 1909, was that a considerable portion of the Cunningham claims were situated in the Chugach National Forest. More recent information is to the effect that they all are.

Mr. PEPPER. That, however, was in virtue of the extension of the forest, and not by its original creation.

Mr. PINCHOT. That was in virtue of its extension in February, 1909.

Mr. PEPPER. And is it or is it not a fact that the Cunningham claims had proceeded to final payment and the issuance of the receipts prior to the extension in question?

Mr. PINCHOT. That is true.

Mr. PEPPER. Well, what about the applicability of what you have just read then to the situation?

Mr. PINCHOT. There are two things to be said about that: One is that the whole spirit of the letter calls for the most complete cooperation between the two departments; the other is the final paragraph of the quotation [reading]:

I would like to have you use special care to report to the Secretary of Agriculture any action taken in your department affecting him in the administration of the forest reserves. The situation calls for the fullest cooperation between your departments in your respective powers and duties over forest reserves and forest-reserve lands.

The CHAIRMAN. Mr. Pinchot, let me see if I understand you. At the time these final entries were made at the Juneau land office, were these Cunningham claims then in the forest reserve as it existed at that time?

Mr. PINCHOT. They were not.

The CHAIRMAN. They were outside the forest reserve?

Mr. PINCHOT. They were outside. But previous to the time of which we are speaking, July, 1909, they had been included.

The CHAIRMAN. And then the final entries were made in July, 1907, I believe?

Mr. PINCHOT. That is my understanding.

Mr. PEPPER. That is correct, sir. In February and March most of them were, and a few of them in October, I think, 1907. So the fact is then as you have stated, Mr. Pinchot, with respect to the inclusion of these claims? Whatever may be the legal interpretation of that agreement, what are the facts, so far as you are aware, as to whether or not notice had been received by the Forest Service?

Mr. PINCHOT. Notice had not been received by the Forest Service, so far as I am aware.

Mr. PEPPER. You have described the sending of these letters to the Secretary of the Interior by the Secretary of Agriculture. What thereafter happened with respect to the arrangement for hearings in the contested Cunningham cases?

Mr. PINCHOT. The contested Cunningham cases, the hearings, were postponed in accordance with the request of the Secretary of Agriculture.

Mr. PEPPER. What, if anything, did the Forest Service do after the receipt of notice and after the making of request on the Secretary of the Interior as described?

Mr. PINCHOT. The Forest Service, by one of its men, went over to the land office and asked to see the records in the Cunningham case. I am informed.

Mr. PEPPER. But that is a matter of which you have no personal knowledge?

Mr. PINCHOT. That is a matter of which I have no personal knowledge.

Mr. PEPPER. That is the incident which gave rise to the question of whether or not he was refused access to the records, etc.?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. And what do you know respecting any examination made by some one sent by the Forest Service to the field for the purpose?

Mr. PINCHOT. A man named Wingate, who has already been referred to in the testimony taken before the committee, was sent by the Forest Service to Alaska to make an examination of the claims, and did so, and made a report on his return.

The CHAIRMAN. Was that report made to the Forestry Department, or to the Department of Agriculture?

Mr. PINCHOT. The Forestry Service.

The CHAIRMAN. Is that report in there—let me ask if that report of Mr. Wingate is in the record?

Mr. PEPPER. That is in evidence. I think Mr. Vertrees introduced it in evidence.

What have you to say about that report, Mr. Pinchot?

Mr. PINCHOT. When I read that report I was satisfied that it was not correct, for two reasons: One was that it seemed to me to traverse completely the probabilities of the case, and the other was that I did not like the report itself. And my recollection is that notice was given from Washington to the district forester at Portland to be careful not to approve the Wingate report, and my information is that it was never subsequently approved; that is to say, accepted by the Forest Service.

Mr. PEPPER. It has been suggested, Mr. Pinchot, I think, that this gentleman was sent up to Alaska with the intimation or instruction

from the Forest Service that he was to make findings to sustain the creation or extension of the forest reserve. Do you know anything about such a transaction?

Mr. PINCHOT. I had never heard such a suggestion made until long after Mr. Wingate had returned.

Mr. PEPPER. Was there, in point of fact, pending at that time, any question respecting the propriety of the creation of the forest or its extension?

Mr. PINCHOT. Not to my knowledge.

Mr. PEPPER. Was there any question, so far as you know, respecting the steps to terminate the forest reservation, or otherwise destroy it?

Mr. PINCHOT. I am very certain I should have known if any steps had been pending, and there were none to my knowledge.

Mr. PEPPER. After what you have described, will you please state where you went in the early part of August, 1909?

Mr. PINCHOT. I went to Spokane, Wash., to attend the National Irrigation Congress, on the 9th, 10th, and 11th, and I think the remainder of the week at that place.

Mr. PEPPER. Did you or did you not have a talk with Mr. Glavis at Spokane on or about August 9? If so, please state what the facts are.

Mr. PINCHOT. I arrived in Spokane early in the morning of August 9, and Mr. Glavis came to see me some time during that day, I believe in the morning. He laid before me then a part of the material which has since been laid before the committee, and described to me the inferences, in part at least; the inferences which seemed to him to be properly drawn from the documents.

Senator FLETCHER. Was that by previous appointment?

Mr. PINCHOT. It was not, Senator. I did not know that Mr. Glavis was in Spokane, or that he was to see me during my western trip.

Mr. PEPPER. What, if anything, had been your personal relations to Mr. Glavis before that time?

Mr. PINCHOT. Practically none. I am not able to remember whether I met Mr. Glavis once in California or not before that time; but so far as any personal relations are concerned which would lead me to remember him, I had had none.

Mr. PEPPER. What did Mr. Glavis say to you, if anything, respecting his intentions in dealing with the material which he submitted to you?

Mr. PINCHOT. Mr. Glavis indicated to me that it was his intention—or at least he was strongly considering the publication of the whole story.

Mr. PEPPER. Did he say why?

Mr. PINCHOT. I gathered from Mr. Glavis's whole talk at that time that he was very much afraid lest the Cunningham claims should go to patent in spite of his efforts, and that he was very anxious to call public attention to the whole transaction with a view of protecting the claims.

Mr. PEPPER. After this interview with him what conclusion did you reach with respect to the matter?

Mr. PINCHOT. I was very much impressed with what Mr. Glavis had shown me and had told me, and I asked him if he would be will-

ing for me to lay his material before ex-Governor Pardee, of California, who was at that time staying in Spokane for the congress. He was a personal friend of mine, in whose judgment I had a great deal of confidence, and Mr. Glavis told me he was willing to do so, and accordingly I did.

Mr. PEPPER. Did you have such a consultation with ex-Governor Pardee?

Mr. PINCHOT. I did.

Mr. PEPPER. And as a result of that consultation or subsequently to the holding of that, what, if anything, did you say to Mr. Glavis?

Mr. PINCHOT. I said to Mr. Glavis that it seemed to me to be his duty and the right thing to do to lay the material before the President at the earliest possible moment.

Mr. PEPPER. Why did you do that, Mr. Pinchot?

Mr. PINCHOT. Why, it seemed to me that there was likely to arise out of this Cunningham case the great national scandal which has since arisen, and I thought it no more than fair that the President should be informed at once of the situation and should have opportunity to protect himself and his administration.

Mr. PEPPER. Well, did you definitely advise Mr. Glavis to go direct to the President?

Mr. PINCHOT. I definitely advised him to go, and gave him letters of introduction to the President.

Mr. PEPPER. Are those the letters of introduction which have heretofore been offered in evidence?

Mr. PINCHOT. They are printed, I believe, in the record.

Mr. PEPPER. I call attention to page 62, Mr. Chairman, of Senate Document 248; there are on that page and on page 63 two letters addressed to the President signed by Mr. Pinchot, both dated August 10, 1909. Will you please read the letters and state why you wrote two and how they were signed, Mr. Pinchot?

Mr. PINCHOT (reading):

SPokane, Wash., August 10, 1909.

DEAR MR. PRESIDENT: The bearer, Mr. L. R. Glavis, is Chief of Field Division in the General Land Office, with headquarters at Seattle. I have known him for several years. He has just laid before me, in pursuance of an effort to prevent fraudulent acquisition of coal lands in one of the national forests in Alaska, statements and documents which, in my judgment, should be in your hands with the least possible delay. The issues involved are large, and can be handled by no one but yourself.

Very sincerely, yours,

GIFFORD PINCHOT.

That letter I sent to the President open, as an ordinary letter of introduction. The following letter went sealed [reading]:

SPokane, Wash., August 10, 1909.

DEAR MR. PRESIDENT: The Cunningham coal case was recently recalled to my attention by telegrams from Forest Service men in the Portland (Oreg.) office calling for action to prevent the passage to patent of coal entries, alleged to be fraudulent, lying within the Chugach National Forest. The necessary action was taken and the issue of patent was deferred. This was just before I left Washington for Spokane.

At Spokane I found Glavis, who had evidently come to tell me his story. When I heard it I advised him to lay the whole matter before you without delay.

The Cunningham case is well known. Various parts of Glavis's story are so much known that I believe it will be impossible to prevent its becoming public, in part at least, and before very long. Many persons have knowledge of more or less essential portions of it.

The deplorable fact, which I learned after I came here, that water-power sites have been acquired on lands restored, after the restoration and before the second withdrawal, will greatly stimulate the search for similar cases.

This is clearly a matter for your personal attention, and my function ends with seeing that it reaches you.

Very sincerely, yours,

GIFFORD PINCHOT.

Mr. PEPPER. Mr. Pinchot, in that first letter you speak of having known Mr. Glavis for several years. What have you to say about his?

Mr. PINCHOT. I have to say, referring to my testimony of a minute ago, I believed I had had personal acquaintance with him, and that I had known of him, and known very favorably of him, for several years as an agent of the Land Office.

Mr. PEPPER. In what you stated a minute ago you had reference to personal relations or friendship?

Mr. PINCHOT. Personal relation.

Mr. PEPPER. I notice that you say in this letter that you have read that there was some deplorable fact respecting the acquisition of power sites in the interval between restoration and withdrawal. What is the fact about that?

Mr. PINCHOT. That referred to the well-known case in Montana, which was published as fifteen hundred and some acres, when, as a matter of fact, the land referred to was one hundred and fifty and some, or fifteen thousand—

Mr. PEPPER. At any rate, the decimal point was displaced; I do not remember to what extent.

The CHAIRMAN. Fifteen thousand was what was quoted, and 158 acres was what was actually entered.

Mr. PEPPER. And in point of fact it turned out that there were no power sites on it. Is that a fact?

Mr. PINCHOT. The matter seems to have been covered completely.

Mr. PEPPER. But that is what you refer to?

Mr. PINCHOT. That is what I referred to, and, in common with a good many people, believed it at the time.

The CHAIRMAN. But you do not believe it now?

Mr. PINCHOT. I have doubts now.

Mr. PEPPER. Mr. Pinchot, what, if anything, passed between you and Glavis respecting the form of submission to the President?

Mr. PINCHOT. Mr. Glavis asked me if I was sent to meet him, or if he might have the benefit of the advice of some one in the office, and accordingly I wired to have Mr. Shaw meet Glavis in Chicago to give him such assistance as he needed.

Mr. PEPPER. Assistance in doing what?

Mr. PINCHOT. In the arrangement of his report.

Mr. PEPPER. For what purpose?

Mr. PINCHOT. To lay before the President.

Mr. PEPPER. Had that any reference to the ultimate publication?

Mr. PINCHOT. None whatever, and may I interrupt you here?

Mr. PEPPER. Certainly.

Mr. PINCHOT. There has been a widespread misunderstanding as to what Shaw was sent to Chicago for. This misunderstanding is due to the belief that he went to Chicago to help Glavis prepare the article which subsequently appeared in Collier's Weekly. As a matter of fact, that article could not at that time have been thought of even

because Glavis had not at that time been dismissed from the service. What Shaw went to Chicago for was to assist in preparing material to be laid before the President, and my sending him there, as I believed, was justifiable on exactly the same ground as my sending Glavis to the President would be.

Mr. PEPPER. In point of fact, then, did the step which you took in the matter which you have just described have reference to any other thing than a submission to the President?

Mr. PINCHOT. Nothing whatever except submission to the President.

Mr. PEPPER. To whom did you send that telegram?

Mr. PINCHOT. I sent it to Mr. Price.

Mr. PEPPER. Mr. Price being whom?

Mr. PINCHOT. He was my associate and in charge of the Forest Service in my absence.

Mr. PEPPER. His position being?

Mr. PINCHOT. Associate Forester.

Mr. PEPPER. Thereafter what did you do?

Mr. PINCHOT. I went on West from Spokane, attending to the business of the Forest Service, inspecting the various headquarters, and early in September went off on my vacation on an island off the coast of southern California with Senator Flint.

Mr. PEPPER. You returned from your vacation about when?

Mr. PINCHOT. I returned about September 20.

Mr. PEPPER. And what, if any, communication did you receive after about that time?

Mr. PINCHOT. I received at that time, at the town of Avalon on my way back to Los Angeles, the letter from the President, under date of September 13, inclosing a copy of his letter to Secretary Ballinger of the same date.

Mr. PEPPER. I show you a letter purporting to be signed by the President, under date of September 13, and ask you if that is the letter to which you refer?

Mr. PINCHOT. That is the letter to which I refer.

Mr. PEPPER. Kindly hand it to Mr. Vertrees. If agreeable to him, I will ask you to read it. Will you be kind enough to read it?

Mr. PINCHOT (reading):

BEVERLY, MASS., September 13, 1904

MY DEAR GIFFORD: I inclose herewith a letter which I am about to send to Secretary Ballinger for such use as he sees fit, in reference to the charges made by Glavis against Secretary Ballinger, Pierce, Dennett, and Schwartz. I have reached no conclusion only after a very full consideration of Glavis's statement, and their answer to it; but I never reached a conclusion based on a stronger conviction than this.

Glavis seems to be a man who has acquired but one idea, and who has allowed his suspicions to grow to such a point as to be altogether disingenuous in the statement of evidence which he adduces to sustain his attack upon his superiors.

I have made no reference to you in this letter, which will probably be made public, because I do not wish to bring you into the controversy at all. I have advised Mr. Ballinger and his subordinates that I wish your name left out of the matter in their answers and references, should it become necessary, as is not unlikely, to send the whole matter to Congress. I am aware from the tone of your letter and from your conversation with me that you do not give to Mr. Ballinger the confidence and trust which I and in this respect I think you do Mr. Ballinger injustice. I think you have allowed your enthusiastic interest in the cause of conservation, and your impatience at the obstacles and difficulties, to mislead you in this regard, and that Glavis himself has led you to regard as suspicious a number of things which, when weighed in the light of all the circumstances now shown, are lacking in evidential force to sustain

evous charge as that of bad faith against officials who have heretofore shown themselves to be entirely trustworthy.

I write this to urge upon you that you do not make Glavis's cause yours. You had no access to the records which Glavis had access to, and you did not know the explanation for some of the things that he pointed out as suspicious which ought to have made known to you and to me. I can not for a minute permit him to remain as a subordinate in the Interior Department, or in the public service. It would be fatal to proper discipline. On the other hand, I wish you to know that I have the utmost confidence in your conscientious desire to serve the Government and the public, in the intensity of your purpose to achieve success in the matter of conservation of national resources, and in the immense value of what you have done and propose to do with reference to forestry and kindred methods of conservation; and that I am thoroughly in sympathy with all these policies and propose to do everything that I can to maintain them, insisting that the action for which I become responsible, or for which my administration comes responsible, shall be within the law. I write this letter in order to prevent any action on your part in taking up Glavis's cause, or in objecting to my sustaining Ballinger and his subordinates within the Interior Department, as a reason for your withdrawing from the public service.

I should consider it one of the greatest losses that my administration could sustain if you were to leave it, and I sincerely hope that you will not think that my action in writing the inclosed letter to Secretary Ballinger is reason for your taking a step of this character. When a man has been unjustly treated, as Secretary Ballinger has been, in the manner pointed out in the letter, a copy of which I send you, it is my duty as his chief, with the knowledge that I have of his official integrity and his lack of culpability, to declare it to the public and do him justice, however great inconvenience may arise in other respects.

I have been greatly disturbed by the public discussion carried on in the press, from which it is inferred that your bureau is arrayed against the Interior Department, and that material is being furnished for both sides from official sources. I was especially distressed by McHarg's reported interview, though I believe he now repudiates any criticism or slurring remarks concerning President Roosevelt. He was an efficient officer, but he talked too much and wildly, and his withdrawal relieved me. I must stop public discussion between departments and bureaus to an end. It is most demoralizing and subversive of governmental discipline and efficiency. I want you to help me in this. I can enforce team work if I can keep public servants out of newspaper discussion.

Very sincerely, yours,

WM. H. TAFT.

Mr. GIFFORD PINCHOT,
Forester, Department of Agriculture, Washington, D. C.

The CHAIRMAN. Is that letter offered in evidence? Do you offer that in evidence?

Mr. PEPPER. Yes, sir.

The CHAIRMAN. It is admitted.

Mr. PEPPER. What did you do on receipt of that letter?

Mr. PINCHOT. I met the President at Salt Lake City.

Mr. PEPPER. Mr. Chairman, may I ask one question? Did a conference take place between you and the President at Salt Lake City?

Mr. PINCHOT. Two conferences.

Mr. PEPPER. Mr. Pinchot desires to acquiesce in the suggestion made at the last session that no statement be made of what was said during oral conversations with the President by anybody. This, however, I think it proper to say, is subject to two qualifications. In the first place it does not apply to so much of the conversation as was afterwards embodied in correspondence between the President and Mr. Pinchot; and in the second place it does not apply to the facts of an understanding between them. That necessity might arise under which correspondence otherwise confidential might have to be made public.

Mr. OLMSTED. How can you testify that an understanding was reached without testifying to the conversation?

Mr. PEPPER. I can only say that I stated specifically that that was a qualification which I shall make to the general statement respecting—

Mr. OLMSTED. I merely inquired so I might understand the qualification.

Mr. PEPPER. I simply understand that the reason why the suggestion was made—and Mr. Vertrees will correct me if I am wrong—the reason why the suggestion was made was in order that there might be an avoidance of any disputable subject-matter in respect to which the President might not have an opportunity to state a different version from the statement of the witness, and obviously what I have just said with respect to the correspondence and its nature is not within the reason for the objection.

The CHAIRMAN. The correspondence, when you offer it, will go in.

Senator SUTHERLAND. Your letter of qualification is only to be invoked upon the question of the propriety of putting in the letters!

Mr. PEPPER. That is all, and because I did not want Mr. Pinchot to be in the position of seeming to break a seal of confidence, which upon the face of the letters is of course suggested. Now, Mr. Pinchot, you did have conferences with the President, and they took place where?

Mr. PINCHOT. One at Salt Lake City in the hotel, and one on the train on the way to Saltair.

Mr. PEPPER. And immediately after these conferences was any public statement made either by Mr. Taft or by you, or by either of you?

Mr. PINCHOT. A statement was made by each of us to give to the press on the afternoon of the day upon which I had the second conference with him.

Mr. PEPPER. Are you able to produce copies of those statements, either of them?

Mr. PINCHOT. These are copies of these statements prepared—

Mr. PEPPER. Never mind about how they are prepared. You are just stating that the copies were prepared?

Mr. PINCHOT. Yes, sir; the copies were prepared at Salt Lake, and one is the carbon and one is the original of the two statements.

Mr. PEPPER. I offer these in evidence.

The CHAIRMAN. If there is no objection they will be admitted. [After a pause.] There is no objection and they are admitted.

Mr. PEPPER. They were published in the press, and I offer them in evidence without taking time to read them.

Mr. PINCHOT. Mr. Vertrees suggested that I read them.

Mr. PEPPER. Very well; they are not long; they are quite short.

Mr. PINCHOT. The first one is the President's statement:

In view of the published statements that the letter of the President to Secretary Ballinger was to be considered in some way a reflection on Mr. Pinchot, the President to-day authorized the publication of the following: That at the time that he wrote the letter to Secretary Ballinger he also wrote a letter to Mr. Pinchot, assuring him that the conclusions stated therein were not intended in any way to reflect on him; that the President deemed Mr. Pinchot's continuance in the public service as of the utmost value; that he expected to continue the Roosevelt policies as to the conservation of resources, including the reclamation of arid lands and preservation of our forests and the proper restrictions in respect to the use of coal lands and water-power sites, as well as the improvement of our waterways, and to ask Congress for such confirmatory and enabling legislation as would put the execution of these policies on the firmest basis.

that he would deem it a great loss if in respect to the matters with which Mr. Pinchot had been concerned the administration should be denied the benefit of his her service.

he President held a long conference with Mr. Pinchot at the Knutzford Hotel at the banquet given by the Fifteenth Infantry.

ALT LAKE CITY, UTAH, *September 25, 1909.*

My statement is as follows:

At the suggestion of the President I make public the following extracts from his letter to me, mentioned in the statement he has just authorized:

* * * I wish you to know that I have the utmost confidence in your conscientious desire to serve the Government and the public, in the intensity of your purpose to achieve success in the matter of conservation of national resources, and in the immense value of what you have done and propose to do with reference to forestry and tried methods of conservation, and that I am thoroughly in sympathy with all of these policies and propose to do everything that I can to maintain them, insisting that the action for which I become responsible, or for which my administration becomes responsible, shall be within the law. * * * I should consider it one of the greatest losses that my administration could sustain if you were to leave it, and I sincerely hope that you will not think that my action in writing the inclosed letter to Secretary Ballinger is reason for your taking a step of this character."

These expressions by the President, which are most kind toward me and most honorable toward my work, as well as the statement authorized by him, define his attitude toward the conservation policies with convincing clearness.

I shall not resign, but shall remain in the government service. I shall give my best efforts in the future, as in the past, to promote the conservation and development of our forests, waters, lands, and minerals and to defend the conservation policies whenever the need arises. Especially I shall continue to advocate the control of the power monopoly in the public interest and the use of our institutions, laws, and natural resources for the benefit of the plain people. I believe in equality of opportunity and the Roosevelt policies, and I propose to stand for them as long as I have the strength to stand for anything.

GIFFORD PINCHOT.

ALT LAKE CITY, UTAH., *September 25, 1909.*

Mr. PEPPER. Did you thereafter address a letter to the President?

Mr. PINCHOT. I did; on November 4.

Mr. PEPPER. Have you a copy of that letter here?

Mr. PINCHOT. This is a copy of that letter.

Mr. PEPPER. Before asking you to read it let me ask you whether, at a subsequent date, to wit, under date of November 24, the President replied to that letter?

Mr. PINCHOT. He did.

Mr. PEPPER. Inclosing with it a letter from Secretary Ballinger to you?

Mr. PINCHOT. Yes, sir; he did.

Mr. PEPPER. Or a copy thereof?

Mr. PINCHOT. A copy thereof and a series of exhibits.

Mr. PEPPER. In reading these letters are you breaking the seal of confidence respecting the letters?

Mr. PINCHOT. I am not.

Mr. PEPPER. I will not ask you to go further into that matter, but to read the letter.

(Mr. Pinchot read the letter, as follows:)

NOVEMBER 4, 1909.

DEAR MR. PRESIDENT: Your most appreciative letter of September 13 reached me in California. In it you inclosed a copy of your letter of the same date to Secretary Ballinger concerning the report of Mr. Glavis, and were so kind as to express your friendly desire that I should not find in it a reason for resigning. Your letter to Secretary Ballinger, besides stating your conclusion as to the Glavis report, also gave your approval of his action in certain matters involving the conservation of natural resources, in which I am deeply interested.

When Mr. Glavis laid before me his statements and documents in Spokane, I advised him to put the whole matter in your hands without delay. It was my duty to do so, because the issues involved were very large and included questions of public policy which could be handled by no one but yourself. As I wrote you at the time, "this is clearly a matter for your personal attention, and my function ends with seeing that it reaches you."

When I saw you at Salt Lake City in September, little mention was made of the Glavis matter, but we discussed the recent relations of the Interior Department to conservation at some length. I expressed the belief that you had been misled as to certain of these relations, and my fear that later on, when the present interest in public interest has subsided, unwise tendencies might reappear, and the public welfare might suffer. I said also that while I should not resign, my course otherwise was still undetermined, and I might find it necessary to make public my opinion as to these relations, even if it should involve separation from my official position. It was agreed between us that I should write you this letter describing the facts as I understand them. You then gave an authorized statement to the press, and I also made a statement, which I first submitted to you, to the effect that I should continue unchanged my efforts to promote and defend the conservation policies, especially as to the control of water-power monopoly, and the use of our institutions, laws, and natural resources for the benefit of the people. After this I left for Washington.

Your own purpose to support the conservation policies you have declared so clearly that all men must now understand it. It goes without saying that I understand and accept it, and that nothing in this letter questions that purpose.

The conservation policies extend far beyond my province as Chief of the Forest Service. But since your inauguration I have come to you freely upon questions concerning them, because of your expressed desire that I should do so, and because I remain by your wish chairman of the National Conservation Commission. The same reasons justify this letter. I realize that without your willingness that I should write it, this letter would have been a serious official impropriety.

The Secretary of the Interior has wider responsibilities than any other Cabinet officer in the conservation of natural resources. His attitude is of larger importance to the conservation movement than that of any other man except the President. It necessarily gives direction to a multitude of decisions, both by himself and to his subordinates, only a few of which may involve by themselves serious injury to the conservation movement, but which taken together may promote or retard it in a most vital way. The following are illustrations of what I believe to be Secretary Ballinger's unfriendly attitude toward conservation:

COAL CLAIMS.

The Cunningham coal claims lie in part in the Chugach National Forest in Alaska. There has been marked failure to cooperate with the Forest Service in its effort to secure full examination of the validity of these claims. Notice was not given to the Forest Service that hearings to determine their validity had been ordered. It was necessary before either the Forest Service or the Land Office could do its duty. When the fact had nevertheless been ascertained, an officer of the service was refused access to the records of the Cunningham claims in the General Land Office, and was only after vigorous protest that the records could be consulted in part. The refusal was afterwards denied in a published interview. These claims were considered fraudulent by the last Secretary, and in accordance with his recommendation pending legislation (60th Cong., Senate bill 6805) authorizing the consolidation of coal claims in Alaska was amended so as to apply only to persons who have in good faith made locations of coal land in the Territory of Alaska in their own lifetime. Yet a special decision of the present First Assistant Secretary, rendered May 1, 1909, would have validated them without regard to whether they were so located or not if it had not been overruled by the Attorney-General's opinion of June 1, 1909 (27 op., 412). The application of the First Assistant Secretary's decision to these claims was afterwards denied in a published interview.

FOREST RANGER STATIONS.

Immediately upon taking office Secretary Ballinger took the new position that the Secretary of the Interior could not legally withdraw ranger stations from the public entry. After careful consideration both Secretary Hitchcock and Secretary Glavis had done so. Without these ranger stations the care and protection of the national forests directed by law is not practicable. Unless such withdrawals are made, no man who at any time in the future can find mineral on a ranger station may be

ning claim and take for his own use public buildings put up at the public expense for public purposes. Secretary Ballinger's refusal to make them has seriously retarded the work of forest protection and increased its difficulties.

Secretary Ballinger accompanied his refusal by a demand that the requests of Secretary Wilson for ranger station withdrawals in cases where no legal objection existed should be accompanied by a statement showing clearly the necessity for the use of the lands proposed to be withdrawn to the uses indicated." This is notice that Secretary Wilson's word will not be accepted as to the needs of his own department.

I have the honor to serve under Secretary Wilson; I am proud to be one of his men; and I respect him as I do few men living. Therefore, I can not refrain from calling your attention to the character of such a reflection upon him. Secretary Ballinger could not detract, nor could I add, by anything he or I might say, one whit to the high confidence and affectionate esteem Secretary Wilson universally commands. A membership in the Cabinets of three Presidents, his great achievements for the public good as Secretary of Agriculture, his high sense of public duty, and his time-tested character and services have established his place permanently in the public mind, and should have been sufficient to protect him from indignity.

WATER POWER.

On March 20, 1909, Secretary Ballinger began to restore to public entry, without advertisement, lands withdrawn by Secretary Garfield at President Roosevelt's direction, to protect the public against unregulated monopoly of water power. Secretary Ballinger considered these withdrawals illegal and inexpedient. On my return from the West early in April I explained to you the danger to the public interest caused by these restorations, and urged that the policy then being followed should be reversed. You expressed great concern lest the public interest might suffer, and said that the restorations had been mentioned to you by Secretary Ballinger, but that he had not told you what they meant, and that you would see him about them.

Thereupon the policy of restoration was reversed; what had been considered illegal and inexpedient was seen to be necessary and within the law, and the rewithdrawals began. According to the letter of the printed forms, it is technically true that the Reclamation Service recommended the restorations. As a matter of essential fact, it is not true, for Director Newell and Chief Engineer Davis protested repeatedly against the restorations to Secretary Ballinger in person, and only made the recommendations his direct and repeated order and after a fruitless attempt to get that order in writing. In an official letter of April 10 to the Secretary of the Interior, the Reclamation Service declined to accept responsibility for the restorations.

THE MISMANAGEMENT OF INDIAN FORESTS.

The forests on Indian reservations have long been grossly mismanaged. On January 22, 1908, a cooperative agreement was approved by Secretary Wilson and Secretary Garfield, under which the trained experts of the Forest Service became available for these Indian forests. This agreement saved the Indians hundreds of thousands, if not millions, of dollars, set new standards of fire prevention, honestly enforced logging contracts, and established effective protection and clean-cut business management wherever it operated.

The agreement accomplished its purpose until March 4, 1909. Then increasingly serious delays intervened. Even when the Interior Department was notified that immediate action was required to extinguish forest fires actually burning, nothing was done and the fires continued to burn. On July 20 the agreement was formally terminated by the Interior Department. This means a return to the old conditions with injury to the Indians and injury to their forests.

Your letter of September 13 to Secretary Ballinger says: "Your declination to carry out the contract was made necessary by the ruling of the comptroller, whose ruling is final and without appeal even to the President, that such an agreement is a delegation of responsibility and authority for the expenditure of money, which the appropriation of Congress for the Indian Bureau did not authorize. While I agree that it would be a wasteful duplication in organization to authorize the Forestry Bureau of the Interior Department to take care of and develop the forests on Indian reservations, since the Forestry Bureau is much better able with its trained men to do the work with efficiency and economy, it is plainly necessary in view of the comptroller's ruling, to secure congressional sanction for such cooperation." The information supplied to you was not accurate. The comptroller never ruled upon this agreement, but he said in a decision sent to the Secretary of Agriculture on May 27, 1907, concerning similar cooperation between the Forest Service and the Geological Survey:

"The performance of work by one bureau for another in the same department or by one department for another, and the transfer of supplies and other articles from one to another, and the reimbursement of the appropriation from which payment therefor was originally made by a transfer of moneys from the appropriation applicable to the procurement of the work or the purchase of the supplies or articles under control of the bureau or department benefiting by or receiving the same, has been recognized by long practice and is often economical and advantageous. I see no legal objection to this practice."

The auditor, who is under the immediate supervision of the comptroller, and governed by his rulings, approved the accounts under it with the agreement before him. Finally, the letter which terminated the agreement contained no reference to any ruling of the comptroller, nor did the conferences which led up to it.

RECLAMATION.

Under Mr. F. H. Newell, as director, the United States Reclamation Service has become an organization of exceptional efficiency. It contains many engineers of high character and standing, who are engaged on its projects at a fraction of what they could earn elsewhere. During the spring I became greatly concerned because it was coming to be generally believed in the Reclamation Service that the director had lost the support of Secretary Ballinger. Some of the best engineers were resigning and others were considering the same step. The situation demanded prompt action. Accordingly, in the hope of preventing further loss to one of the most important branches of practical conservation, I laid the matter before you. You assured me that the Reclamation Service would be protected. No one can doubt your own purpose in the matter. Yet I recognize with regret that the unfortunate situation to which I call your attention still exists. If it is allowed to continue, the Reclamation Service will inevitably disintegrate.

These examples leave no doubt in my mind that Secretary Ballinger has shown himself actively hostile to the conservation policies. But whether or not they are sufficient to establish the fact of active hostility beyond a reasonable doubt, as I believe they do, is not the whole question. Under our form of government the Secretary of the Interior is more directly responsible for conserving the natural resources than any other public officer. Unless he is vigorously friendly to the conservation policies and prompt to defend our natural resources against the unending aggressions of private interests, the public interest must suffer. If he does not defend it in certain matters, no one else can. In these matters indifference and hostility differ only in their final results.

The effect of Secretary Ballinger's action in the instances cited was actively harmful to the public interest in the most critical and far-reaching problem this nation has faced since the civil war. Both because of his attitude and of what he did, I am forced to regard him as the most effective opponent the conservation policies have yet had.

Very respectfully,

Chairman.

Mr. PEPPER. May I ask you whether, in view of the testimony that you have from Mr. Glavis and his witnesses and the documents which you have since examined, whether there is anything in that first section with regard to coal claims that you want to withdraw or modify?

Mr. PINCHOT. On the contrary, it could be made very much stronger.

Mr. PEPPER. What do you mean by that?

Mr. PINCHOT. I mean that the statement of facts with relation to the Cunningham claims could be made, and still be kept far inside the truth, very much more vigorous than this statement is.

Mr. PEPPER. You have referred there to this question of the relation between Mr. Pierce's opinion and the Attorney-General's opinion. Has what you have just stated any reference to that matter or issue?

Mr. PINCHOT. Yes; the question of law involved is one that I think it would not be wise for me to attempt to discuss, but the fact is that the Land Office plainly believes that the Pierce decision would

validate the Cunningham claims and that the Attorney-General's decision would prevent their passing to patent.

Mr. PEPPER. When you say that, have you any specific matter in mind, or is that simply a general impression?

Mr. PINCHOT. No; there are letters in evidence already that indicate that.

Mr. PEPPER. It has been suggested that the Pierce decision had no relation or primary relation to the Cunningham claims, on the ground that the Cunninghams had refused finally at the time of its rendition to apply for patent under the new law. What does the record show as to whether that matter was closed at that day?

Mr. PINCHOT. The record shows specifically that the matter was not closed and that the Land Office considered that it was not closed.

Mr. PEPPER. What do you refer to when you say that?

Mr. PINCHOT. I refer to a letter——

The CHAIRMAN. What page is it on?

Mr. PINCHOT. In the list of orders, page 97, an unsigned letter of the commissioner, under date of May 22, to Hon. Miles C. Moore, which is very short, and which I will read:

MAY 22, 1909.

HON. MILES C. MOORE,
Walla Walla, Wash.

SIR: In reply to your inquiry, you are advised that application to consolidate individual pending coal entries in Alaska, under the act of Congress approved May 11 meaning, I take it, May 28], 1908, may be filed at any time prior to July 11, 1909. Your attention is called to marked paragraph of the circular of July 11, 1908, on page 21 of the inclosed coal circular.

Very respectfully,

Commissioner.

copies by FRL.

Mr. PEPPER. Is that three days after the Pierce decision?

Mr. PINCHOT. Three days after the Pierce opinion.

Mr. PEPPER. Are there any other letters that follow in sequence in the list?

Mr. PINCHOT. There is another letter of May 22, the same date, from ex-Governor Moore to Mr. Ballinger.

Mr. GRAHAM. Have you any information what this marked paragraph in the circular of July 11 was?

Mr. PINCHOT. I have not.

Mr. PEPPER. And then there was a letter from ex-Governor Moore; is there any reply to his letter?

Mr. PINCHOT. There is a reply from Mr. Ballinger. There is a clause, however, which I would like to read, in Governor Moore's letter.

Mr. GRAHAM. What page is that?

Mr. PINCHOT. This is on page 198, the third paragraph from the end.

Patents are still offered under the new law, but as no money can be raised on them, another year is lost and development delayed. This letter is not intended for your official files, but simply to express the feeling of disappointment felt by myself and many of your former friends. If it were possible to have a reconsideration of this matter I am sure it would be much appreciated and involve no one in a censurable way.

Very sincerely,

MILES C. MOORE.

Mr. PEPPER. Who replies to that letter?

Mr. PINCHOT. Secretary Ballinger replied to that letter under date of May 24.

Mr. PEPPER. To what effect?

Mr. PINCHOT. It should be explained that ex-Governor Moore's letter of the 22d was written from the New Willard, and did not have to come all the way from Walla Walla. This is the letter of May 24. This is what I desire to call attention to:

DEPARTMENT OF THE INTERIOR,
Washington, May 24, 1909.

Hon. MILES C. MOORE,
Walla Walla, Wash.

DEAR SIR: I am in receipt of your letter of May 22, 1909, expressing your disappointment at opinion of First Assistant Secretary Pierce with reference to what are known as the Cunningham coal entries in Alaska, and stating that it seems to you that a technicality has been allowed to govern rather than a liberal construction of the law.

In reply I have to advise you that I can not undertake to issue any order or make any ruling in the matter as requested because of the embarrassment which would result from the fact that I was, while not holding an official position, called upon to advise in the matter. The case has, however, been carefully looked into, and I wish to say that, in view of all the facts now disclosed, I would, if I were ruling upon the matter, hold that the principle announced in the opinion of Judge Hanford in the case of *United States v. Portland Coal and Coke Company et al.*, October 5, 1908, is directly applicable to these cases, and that if the allegations made be proven patent can not issue under the provisions of the act of April 28, 1904.

As you have been advised—

And this is what I desire to call attention to—

the department is disposed to give the coal-land act of May 28, 1908, as liberal a construction as is consistent; and if you and your associates desire to take advantage of that act you should proceed in accordance with same and with circular of instructions of July 11, 1908. In this connection attention is directed to the paragraph of instructions entitled "Pending entries."

Very respectfully,

R. A. BALLINGER, Secretary

Mr. PEPPER. Now, you have referred to the understanding of the Land Office or the Department of the Interior respecting the effect of that Pierce decision. Is there any document which shows the interpretation put upon the Attorney-General's decision by the same department when it was subsequently rendered?

Mr. PINCHOT. Yes, sir; there is a letter which passed between Mr. Dennett and Mr. Schwartz; I do not remember which way.

Mr. PEPPER. You refer to a letter of July 29, 1909, from Dennett to Schwartz?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Turn to the top of page 426 of Senate document.

Mr. PINCHOT. This is the letter under date of July 29, 1909, beginning "My dear Schwartz," signed "Fred Dennett."

The CHAIRMAN. What page is that?

Mr. PEPPER. Page 426, at the top. The letter begins on page 425.

Mr. JAMES. Also on page 249 of the list.

Mr. PEPPER. The same letter.

Mr. PINCHOT. The paragraph which I wish to read is as follows:

Of course, I do not wonder that he has to make adverse reports after the Attorney-General's opinion of the law; that is all right; but it is his attitude that is bothering me; it looks as if he were trying to dig pitfalls for his best friends.

Mr. PEPPER. Mr. Pinchot, on the bottom of page 425 is there any reference to the unfavorable report which explains which you have just read?

Mr. PINCHOT. Yes; I read from that page. I will read just a line before that:

Glavis prophesies the greatest friendship for you, and I think you know him better than anyone else, and this is certainly the worst situation we have. He will make about forty favorable and about five hundred unfavorable reports; the way things will commence to drop will be amusing. The Judge says: "It will all come out; Congress will have to come to the rescue." However, all the rescue that Congress gave before amounted to very little.

Mr. PEPPER. Is there anything else you want to say about your reference to the Cunningham claims in this letter?

Mr. PINCHOT. Nothing occurs to me.

Mr. PEPPER. Anything about the clear-listing order?

Mr. PINCHOT. The clear-listing order is not mentioned at all. I should be glad to describe the clear-listing order if you want me to do so.

Mr. PEPPER. No. If you will go on and read the matter which immediately follows.

Mr. PINCHOT. The next paragraph is under the head, "Forest rangers."

(This paragraph appears in the letter in full in a former part of to-day's proceedings.)

Mr. PEPPER. Mr. Pinchot, are there any comments you want to make on that paragraph?

Mr. PINCHOT. Nothing further than to say that I stand vigorously by everything that I have said in it.

Mr. PEPPER. It is a matter that is referred to in Mr. Ballinger's reply. Perhaps I can question you more properly when you come to that.

Senator FLETCHER. Allow me there, Mr. Pepper. In the letter of May 24, 1909, of the Secretary, page 198 of the list, the Secretary refers to the circular of July 11, 1908, and directs particular attention to the instruction entitled "Pending entries." I think you should read at this point the provisions of the circular under the head of "Pending entries."

Mr. PEPPER. In accordance with the suggestion, may the stenographer be instructed to write it back into the context with the letter?

The CHAIRMAN. Yes.

Senator FLETCHER. You had better read it; it is not very long.

Mr. PEPPER. The section in question is this:

Claims embraced in unpatented entries, if the entryman shall so elect, may be consolidated into a single entry under this act, upon presentation of a proper application therefor within twelve months from the date hereof. In the event of such consolidation no further payment, publication of notice, nor any new or additional survey of the claims embraced in the consolidated entry will be required, but the application must be accompanied by a plat as consolidated, by proof of the qualification of the applicants, and by evidence of the assignment of the claims to the applicants.

Mr. PEPPER. Now will you proceed with your reading, taking up the section of "water power?"

Mr. PINCHOT. Water power. On March 29, 1909—

Mr. PEPPER. Let me interrupt you a moment. Is that the correct date?

Mr. PINCHOT. No, sir; March 30. This says March 20.

(Mr. Pinchot here read the paragraph entitled "Water power" which appears in the letter printed in full in a former part of to-day's proceedings.)

Mr. PEPPER. Directing your attention to that point of what you have read that deals with your résumé of what you said to the President; is that the matter respecting which a subsequent letter of the President expresses a somewhat different recollection?

Mr. PINCHOT. It is.

Mr. PEPPER. May I ask whether the second half of what you have read is covered by the offer of proof through Davis and Newell?

Mr. PINCHOT. It is.

Mr. PEPPER. Please read the subject of "Indian forests."

(Mr. Pinchot here read the paragraph entitled "Indian forests," which appears in the letter in full, published in a former part of today's proceedings.)

Mr. PEPPER. Have you anything to modify or withdraw in regard to that letter?

Mr. PINCHOT. With the single exception of a date already mentioned, I have nothing whatever to modify or withdraw.

Mr. PEPPER. I think it will make the record much clearer, Mr. Chairman, to have the letter printed as a whole unless the committee is of a different opinion, as long as the letter is divided into sections; it makes the examination a little clearer to follow the course that I pursued.

The CHAIRMAN. There is no necessity for duplicating parts of that letter. We will put the whole letter in evidence.

Mr. PEPPER. Very well. Mr. Pinchot, did you subsequently receive an answer to that letter from the President?

Mr. PINCHOT. I did.

Mr. PEPPER. And in the letter what inclosures came?

Mr. PINCHOT. There came a letter from Secretary Ballinger under date of November 15, and five or six or seven exhibits.

Mr. PEPPER. I show you a letter bearing date of November 24, 1909, purporting to be written by the President to you. Is that the letter to which you refer?

Mr. PINCHOT. That is the letter.

The letter is as follows:

THE WHITE HOUSE,
Washington, November 24, 1909.

My DEAR MR. PINCHOT: I have your letter of November 4. I do not know that there is any necessity for my taking up your recital of the facts, except to state my disagreement with you in respect to what you call "illustrations of" what you believe to be "Secretary Ballinger's unfriendly attitude toward conservation." I have had a much better opportunity than you, from an examination of the entire record in regard to the Cunningham coal claims, to determine whether Mr. Ballinger's action in reference to them indicated any desire to permit the claims to ripen into patents without sufficient examination. The incident with reference to the refusal of access to the Cunningham claims in the General Land Office is fully explained in the record filed in answer to the Glavis charges.

I can not accept the suggestion, in the controversy over the ranger stations, that Secretary Ballinger intended to intimate that Secretary Wilson was not acting in good faith. Certainly Secretary Wilson has never regarded Secretary Ballinger's position in this respect as one of insinuation or charge against him. Nor can I agree with you in your statement as to just what occurred when you visited me to object to the withdrawals made on Secretary Ballinger's recommendation in March and April of last year. My recollection is that I told you I concurred with Secretary Ballinger in thinking there was no authority to make such wholesale withdrawals, and that that was the reason I had concurred in his recommendation; but that he had said that such wholesale withdrawals were not necessary for the preservation of water-power sites and that he would acquire information from the Geological Survey sufficient to enable him to withdraw such sites as could be definitely ascertained. Mr. Ballinger de-

not attempt to deny that his wish to revoke the order of withdrawal was on the ground that he was opposed to such withdrawal as beyond the power of the Secretary, and he only concurs in the wisdom of the present withdrawals of water-power sites as the continuance of a power already exercised and temporarily made until Congress can act. Mr. Ballinger's view in regard to this matter concerns his construction of statutory powers, and I can not admit that a difference from Mr. Garfield's view in this regard argues in any way a lack of friendliness on the part of the present Secretary toward the general policy of conservation of resources.

I have thought it only fair to submit to Mr. Ballinger your letter and a letter which I have received from Secretary Garfield on the same subject, and invite from him a comment on the remarks of both. I submit this answer to your position not for the purpose of publication, and with the hope that the controversy may cease; but if it is not to cease, and if some time this correspondence is to see the light, it is only fair that the answer of the person most concerned, and who has been bitterly attacked in the press, should be presented to you and made part of our correspondence.

I am bound to add that you have not by anything that you have suggested in your letter shaken in the slightest my confidence in Secretary Ballinger's good faith, and in his earnest and hearty cooperation in carrying out the policy of the conservation of our resources, in so far as that policy lies within the jurisdiction of his department.

I send you also a comment by the Commissioner of Indian Affairs on your criticism as to the mismanagement of the forests on the Indian reservations.

I do not ask any further correspondence on this subject, unless you insist on it. I wish to renew my earnest desire that you remain as Chief Forester and continue the work which you have been doing, and that you assist me by using your influence to prevent further conflict between the departments by published criticisms in the newspapers. I believe it to be entirely possible that Secretary Ballinger should pursue, as I have no doubt he will pursue, a consistent course in his department in support of the Government's policy of conserving natural resources, and I know you will do the same in the Forestry Department. With this result, I can not see why it is necessary that your attitude toward him, or his toward you, in different departments, should interfere with the efficiency of the Government work, unless the time of both is taken up with a continuance of the controversy, which I do not think is in the interest of the public service.

With the hope that you will regard this letter as written in an entirely friendly spirit, and in the anxiety to compose all differences and make the work go on in all departments, believe me,

Sincerely, yours,

WM. H. TAFT.

Mr. GIFFORD PINCHOT,
Forester, Department of Agriculture.

Mr. PEPPER. And accompanying it is the copy of a letter purporting to be written by Secretary Ballinger to the President, and accompanied by various exhibits. Are those the inclosures [exhibiting papers]?

Mr. PINCHOT. Those are the inclosures with a single exception. There were two letters inclosed from the office of Indian Affairs, one of November 18 and one of November 22. The original of the one of November 18 has been mislaid, and I have only a copy.

Mr. PEPPER. But that you have is a copy?

Mr. PINCHOT. I presume it to be an exact copy. The rest of the exhibits are the originals transmitted by the President.

The CHAIRMAN. Do you offer those in evidence?

Mr. PEPPER. I will in a moment, Mr. Chairman, I want to take the direction of the Committee in this matter. Two days after Mr. Pinchot's letter of November 4 to the President, Mr. Garfield wrote a letter to the President of which I hold a copy in my hand on the date of November 6. The letter of Mr. Ballinger, which Mr. Pinchot is about to read, deals in one part with Mr. Garfield's letter, and in the other part with Mr. Pinchot's. In proper sequence, of course, this letter should be produced when Mr. Garfield is examined, it strikes me.

The CHAIRMAN. Is that letter sent up from the Agricultural Department among the files?

Mr. PEPPER. No, sir; this letter, I take it that this copy—and I speak subject to correction—is a copy of Mr. Garfield's letter to the President, which was obtained from Mr. Garfield.

Mr. PINCHOT. That is my understanding.

Mr. PEPPER. I am perfectly well aware that it is proper to offer it at the present time, but I do not offer it; I simply suggest that if the committee thinks proper it would make the record clearer to have it printed into the record at this time subject to verification when Mr. Garfield testifies, because when we come to read Mr. Ballinger's letter it will be much more intelligible to have before us both the documents he is answering.

Senator FLINT. Do you understand this to be a public document; that is, an official letter from Mr. Garfield to the President, or private correspondence?

Mr. PEPPER. I understand that it is a letter written as Mr. Pinchot's letter of November 4 was for submission to Mr. Ballinger and received Mr. Ballinger's reply—the making up of a complete record, as the President says in his letter of November 24—so if the thing ever comes out it may all come out together.

Senator FLINT. What I am trying to get at is this: Do you understand that that is a part of the files of the Interior Department—the copy of this letter?

Mr. PEPPER. I should assume that to be the fact, although I have no personal knowledge of it.

The CHAIRMAN. Is there any objection, Mr. Vertrees?

Mr. VERTREES. None whatever.

The CHAIRMAN. It is admitted. You can offer that letter and have it read first if you like.

Mr. PEPPER. I will offer it in evidence and have it spread on the record without reading it unless it is desired that it should be read.

The CHAIRMAN. Very well, it will go into the record without reading it.

(The letter referred to is as follows:)

NOVEMBER 6, 1904.

MY DEAR MR. PRESIDENT:

On thinking over your published letter of September 13 to Secretary Ballinger, and after examining the facts, it has seemed to me necessary to write you on certain points raised regarding acts of my administration, since silence on my part would naturally imply acquiescence in the statements relating thereto.

I do not desire to discuss differences of interpretation of laws. Claims that I acted illegally will be found to rest upon a fundamental difference in policy between Secretary Ballinger's administration and mine. I took such action as I believed proper and necessary to safeguard the public welfare, unless there was some specific prohibition in law to prevent action, thus exercising the supervisory power and executive discretion vested in a cabinet officer. Secretary Ballinger seems to take the position that he will not act, even though action be in the interest of the people, unless there is specific permissive or mandatory law. Such difference in policy arises from totally different conceptions of executive duty, and leads to widely divergent administrative action.

It is to facts that I call attention, believing that you were misinformed about some of the matters dealt with in your letter.

First, as to the withdrawal of lands for the protection of water-power sites.

The question of how best to deal with water-power development and regulation was most carefully considered by President Roosevelt and presented for the consideration of Congress directly when he vetoed the Rainey River dam bill.

For the purpose of carrying out the policy adopted, I directed, in June, 1903, the engineers of the Reclamation Service to make report of available power sites upon the public lands, it being my purpose to withdraw such areas from entry in order

to prevent their acquisition by private interests for merely speculative or monopolistic purposes, and thus give the National Government a chance to enact laws and adopt regulations under which the public interests could be safeguarded.

During the fall of 1908 the reports were tabulated by Mr. Newell and Mr. Davis, of the Reclamation Service. No men in the public service are better qualified by training and experience to do such work.

When determining the amount of land in any withdrawal I resolved doubts in favor of the public interest, knowing that land found unnecessary could readily be restored. The withdrawn areas were described by township and, sections, and, of course, did not affect private lands or existing legal entries.

In accordance with the general practice of the department these withdrawals were to be followed by detailed field and office examinations and lands not needed were to be restored. The first of these withdrawals was made in October, 1908, and others followed when reported by the Reclamation Service.

Within a few days after Secretary Ballinger assumed office he stated, in conversation with officers of the Reclamation Service, that these withdrawals were made in direct violation of law. He gave no other reason for objecting to them. He directed the Reclamation Service to prepare lists for restoring the withdrawn lands, but to do so slowly in order not to attract public attention.

The officers of the Reclamation Service explained to Secretary Ballinger the reason for the withdrawals and the methods used and urged that the Reclamation Service be permitted to carry out the original plan of restoring only such lands as might be found unnecessary. To this Secretary Ballinger would not agree, but held that any such withdrawal was illegal and directed the restorations.

In accordance with his instructions and not upon its own initiative the Reclamation Service recommended lists for restoration. Many restorations were made.

After this matter was brought to your attention during April Secretary Ballinger stated to the officers of the Reclamation Service that he had been instructed by the President to withdraw all the power sites that were known or could be discovered. He had prepared a letter directing the Reclamation Service to detail engineers to make examinations. Finally, upon the suggestion of the Reclamation Service, the Secretary directed the Geological Survey to make the examinations and prepare the list, not because the Survey had any more accurate information, but merely because it controlled a more available appropriation for field examinations.

Immediately thereafter the lists for rewithdrawals were prepared by the Geological Survey in cooperation with the Reclamation Service and submitted, but without field examination. Exactly the same kind of information was used that was used for the original withdrawals, the chief difference being that all entered lands were eliminated by specific description rather than general exception. This difference in method of description accounts for the chief difference in total areas reported as withdrawn by Secretary Ballinger and by me. There is in fact no material difference when the proper deductions are made and this was explained to Secretary Ballinger, but seemingly not considered in the report to you.

It is to be remarked that many thousand acres withdrawn by me remain unquestioned although withdrawn upon the identical information which was reported to you as inadequate.

In brief, it is evident that those who advised you upon this matter avoided a frank statement of the facts. Secretary Ballinger restored the lands, claiming that the Secretary had no power to so withdraw lands and that I had acted illegally. Later, following your intervention, he did exactly what I did, and now his previous action is explained, not by a statement of the facts, but by the claim that his restorations were made merely to correct hasty or inaccurate work done under my administration. It is obvious from the facts I have stated that such a claim is wholly unwarranted.

I sincerely hope more power sites than I withdrew will be found and withdrawn, and that no power sites were lost during the period between Secretary Ballinger's restorations and rewithdrawals; but I am at a loss to understand how the Interior Department can legally refuse to issue patents to entrymen who may have honestly made entries during that period.

Second, as to the cooperative work under the Reclamation Service.

The criticism of such work seems to be based upon the idea that there was no money in the Treasury available for use by the Secretary of the Interior at the time the cooperative agreements were made.

At all times since construction began the available cash balance subject to use by the Secretary of the Interior has been more than \$5,000,000 in excess of all liabilities, including all work authorized under the cooperative agreements.

Furthermore, it is said that the certificate system will result in disaster. Just how or why is not explained, nor can it be except on the theory that a Secretary of the

Interior will maladminister the reclamation funds by entering upon more work than he has funds to pay for, or fail to properly safeguard expenditures and receipts. Such action is just as possible under the ordinary contracts as under the cooperative construction contracts.

The certificates are issued by the Water Users' Association, not the Government. While they represent the amount of work done or material furnished, they likewise represent an exactly similar amount to become due the Government for water furnished. Therefore, they are the evidences for completing a debit and credit transaction between the Government and the Water Users' Association with which the construction contract has been made.

Instead of increasing the hazard of a reclamation project, this cooperative system absolutely guarantees the Government against loss of invested capital. The total amount of the cost of construction under a cooperative contract is included in contingent liabilities and is thus deducted from the total cash available for further construction. It can only become available when the water charges, equal to the cost of construction, are paid; such payment being made by the presentation of the certificates representing the cost of work and material.

Reduced to its simplest terms, the cooperative agreement provides for a return to the Government of the cost of a given portion of a project in one or two years instead of ten. It makes it possible to turn over the capital invested in from one-tenth to one-fifth shorter time than under the usual method, and gives to energetic landowners increased opportunity to use water.

The plan was approved by the officers of the Reclamation Service and the General Land Office, by the Assistant Attorney-General for the Interior Department, and finally by the Senate Committee on Irrigation.

I regret the necessity of writing you on this matter, but I am sure you wish to know the facts.

Very sincerely,

(J. R. G.)

To the PRESIDENT.

Senator ROOT. Mr. Pepper, I understand that this letter which you are now offering in evidence is referred to in some subsequent letter by Secretary Ballinger?

Mr. PEPPER. In the letter which Mr. Pinchot is now going to read—Secretary Ballinger's letter of November 15—he takes up specifically first the Garfield letter of November 6.

Senator ROOT. He refers to the Garfield letter?

Mr. PEPPER. He refers to it by name and answers the various contentions made therein by Mr. Garfield; I think it would keep the record in sequence for the committee if the letter is inserted before the answer.

Mr. McCALL. I think the letter had better be read so as we can understand it.

Mr. PEPPER. I will be very glad to read it. I did not care to trespass upon the time of the committee.

The CHAIRMAN. As I understand, you have no objection, Mr. Vertrees.

Mr. VERTREES. None at all.

The CHAIRMAN. Very well.

Mr. PEPPER. Mr. Pinchot, will you be kind enough to take up and read to the committee the letter of Mr. Ballinger which was placed in your hands by the President?

Mr. PINCHOT. This letter is dated November 15, 1909, and is as follows:

[PERSONAL.]

THE SECRETARY OF THE INTERIOR.

Washington, November 15, 1909

SIR: In compliance with your direction, I herewith furnish you the facts requested respecting the matters covered by the letter of Hon. James R. Garfield, dated Cleveland, Ohio, November 6, 1909, addressed to you, and the letter of Hon. Gifford Pinchot dated Washington, D. C., November 4, 1909, also addressed to you.

First: As to Mr. Garfield's letter.

It is apparent that there is an irreconcilable difference between his views of the law governing an administrative officer and those entertained by me, and nothing is gained by their repetition here. I am, however, convinced since reading these letters that the real animus against me lies in the fact that I have had to treat so many of my predecessor's acts as unsupported by law. In this particular I have taken no step which in my judgment was not the imperative duty of a conscientious official and required by my oath.

Regarding the assertions of Mr. Garfield respecting my conduct on the subject of water-power withdrawals, he is correctly informed that I regarded his blanket withdrawals, under the guise of reclamation withdrawals, where in fact they were not or reclamation purposes, as illegal. In working it out I could find no other solution except by way of restoration and rewithdrawal in the manner in which it was handled, and that to have the matter intelligently presented to Congress it was necessary to make new withdrawals with sufficient data to determine what they were withdrawn or.

The only error I made in the whole affair was in not having the restorations and rewithdrawals made concurrently, which I would have done had I been as conversant with the facts then as I am now. The history, however, of this entire matter when fairly judged leaves no room for impugning my motives or of indulging in the opinion that I was coerced into the rewithdrawals. In all these particulars Mr. Garfield has been by some officer or officers of the Reclamation Service erroneously advised and an unfair and in some respects untruthful coloring given my relations to the same. In further confirmation of my statements in this respect I append for your examination copies of all the correspondence between the Reclamation Service and my office on his subject, as well as copies of the restorations recommended by Acting Director Davis and approved by me. (See Exhibit A hereto attached.)

The act of June 17, 1902, known as the "reclamation act," in terms provides for the withdrawal of public lands for the following purposes only:

"Sec. 3. That the Secretary of the Interior shall, before giving the public notice provided for in section 4 of this act, withdraw from public entry the lands required or any irrigation works contemplated under the provisions of this act, and shall restore to public entry any of the lands so withdrawn when, in his judgment, such lands are not required for the purposes of this act; and the Secretary of the Interior is hereby authorized, at or immediately prior to the time of beginning the surveys or any contemplated irrigation works, to withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works. * * *"

Assuming Mr. Garfield's doctrine of the supervisory authority of the Secretary of the Interior to suspend the public-land laws by executive withdrawals to be sound, which I do not admit, proper administration would not warrant the use of the Reclamation Service for a purpose in no manner related to the functions of that bureau and not within this act, as there is an implied prohibition against withdrawing lands hereunder except for the purposes specified. Furthermore, any expenditure of reclamation moneys in investigation of these withdrawals must be conceded by all as totally unwarranted, a fact which has since been demonstrated by the inability to procure (and properly so) through the Reclamation Bureau information concerning the status of Carey Act irrigation projects in the various States, the reason advanced by the acting director being that the bureau was not authorized to apply its funds to such purposes. The fact that another bureau of this department had an appropriation for this purpose and had data under which intelligent withdrawals could be made was another adequate reason for transferring to the Geological Survey the full authority on the premises and cleaning up the matter so far as the Reclamation Bureau was concerned.

When this subject was under consideration in the department, you will recall the act that I took it up with you, and I am not aware of not giving you a full and "frank statement of facts" in this as in all other matters presented by me to you.

I have heretofore reported to you the method adopted by the Geological Survey in obtaining the necessary facts to support its withdrawals. This method refutes the further statement made by Mr. Garfield to the effect that the Geological Survey acted upon the "same kind of information as was used by the Reclamation Service," for the Geological Survey drew its information from data which had been acquired from several years of field investigation of land and water resources and data which it is continually acquiring on this subject. Also, the maps and other data heretofore exhibited to you demonstrate the inaccuracy of Mr. Garfield's assertion that the difference in quantity between the area of land withdrawn by him and that withdrawn during my administration is due to the elimination from the latter of entered lands. (Copies of these tables and maps are attached, marked "Exhibit B.")

The withdrawals made by Mr. Garfield were generally in pursuit of a theory that the Executive was vested with a power to do any and all things which in his judgment might be proper to be done in the absence of specific constitutional or legislative prohibition, and did not truthfully show what they were made for; whereas the withdrawals which have been made during my incumbency have shown what they were made for, and have been accompanied by the express declaration that they were for the purpose of enabling Congress to adopt legislation in regard thereto. I have not adopted any subterfuge in this respect.

The question as to the issuance of patents to persons who have made entries of land during the interval between restoration and withdrawal has been repeatedly passed upon by the courts. Such withdrawals, if legal, will prevent the effectiveness of inchoate rights. Aside from this, however, after three careful searches of the Land Office records, no such entries have been found, and the question is largely academic.

Mr. PEPPER. Let me interrupt you there for a minute, Mr. Pinchot. What in point of fact were the two classes of restoration that Mr. Ballinger had heretofore made?

Mr. PINCHOT. You mean Mr. Garfield?

Mr. PEPPER. No. The restorations made by Mr. Ballinger.

Mr. PINCHOT. Mr. Ballinger had restored withdrawals made under the reclamation act and restored withdrawals made under the general supervisory power; those two.

Mr. PEPPER. Now, referring to what you have just read, to which of these two distinct classes of withdrawals do you find specific reference?

Mr. PINCHOT. Apparently there is nothing here that refers to anything except the reclamation withdrawals.

The CHAIRMAN. Well, Mr. Pinchot, were not these withdrawals made on two grounds—one ground being withdrawals for the Reclamation Service, and another ground being for power sites?

Mr. PINCHOT. As I have just explained, Senator.

Mr. PEPPER. And I am now asking the witness as to which of these two classes of withdrawals the language of the letter just read refers to.

Mr. PINCHOT. And the answer is that it refers wholly, so far as I am able to see, to the reclamation withdrawals, and not at all to the power-site withdrawals made under the supervisory power.

Mr. PEPPER. And you are speaking of the restoration?

Mr. PINCHOT. I beg your pardon. The restoration.

Mr. PEPPER. And accompanying that document was an exhibit marked "Exhibit A;" is that not so?

Mr. PINCHOT. It is here.

Mr. PEPPER. And when you turn to Exhibit A do you find that it in fact contains the correspondence between the Reclamation Service and the Secretary of the Interior on the subject of the reclamation withdrawals?

Mr. PINCHOT. No; it is concerned altogether, as I understand it, with the supervisory withdrawals.

The CHAIRMAN. Power-site withdrawals?

Mr. PINCHOT. Power-site withdrawals.

Mr. PEPPER. So that the discussion in the text of the letter is to the alleged illegality of the reclamation withdrawals under the act of 1902, and the exhibit accompanying has no reference to that matter, but to power-site withdrawals—is that right?

Mr. PINCHOT. Precisely. In other words, the letters and the exhibit do not match.

Mr. PEPPER. Mr. Chairman, I have called heretofore for the production of the correspondence which does relate to the reclamation

restorations. I think, doubtless through an oversight, those documents have not yet been put into Mr. Sleman's hands. If I am wrong, Mr. Sleman will correct me.

Mr. SLEMAN. I think there are quite a number of documents here from the Reclamation Service.

Mr. PEPPER. They have come?

The CHAIRMAN. I am informed by the clerk that there are quite a number of documents from the Reclamation Service; perhaps if you will examine them you will find what you want among them.

Mr. PEPPER. Hitherto our examination has not disclosed them; but with your permission we will confer with Mr. Sleman later on about that.

Mr. PEPPER. Will you note, Mr. Pinchot, the clause in which Mr. Ballinger refers to what he calls his only error, and make any comments you please on it?

Mr. PINCHOT. The clause says [reading]:

The only error I made in the whole affair was in not having the restorations and withdrawals made concurrently, which I would have done had I been as conversant with the facts then as I am now.

The obvious thing which would have been done if proper care had been taken for the public interests was to restore only the lands which were not wanted for power sites. I can make the thing plain, perhaps, with an illustration. If a lot of chickens had gotten into my chicken yard that belonged to my neighbor, my plan to restore those chickens to my neighbor would not be to drive the whole flock out into the road and then take the chance of driving my own chickens into the yard. I would go into the yard and pick out my neighbor's chickens and throw them over the fence.

Mr. PEPPER. What about the suggestion respecting the original plan, as involving intended withdrawals.

Mr. PINCHOT. That is covered by my offer to prove the attitude of Secretary Ballinger through Mr. Davis and Mr. Newell.

Mr. PEPPER. And is the same thing true as to what Mr. Ballinger says in that letter respecting the use of the reclamation fund?

Mr. PINCHOT. The same thing is true.

Mr. PEPPER. Will you be kind enough to resume your reading? I think the next thing has to do with reclamation certificates not touched upon in your letter.

Senator FLINT. Is there anything in the record here that shows what the land that was taken up between the restoration and the withdrawal amounted to? Was it land that was valuable for water sites?

Mr. PINCHOT. There is a lack of information on my part, Senator, as to just what was taken up and what was not at that time.

The CHAIRMAN. That 150-acre tract?

Mr. PINCHOT. That I have already testified about.

The CHAIRMAN. That was private property, was it not, or, at all events, there was no power site there as I understand it. Do you understand that that included a power site on public land?

Mr. PINCHOT. I am not clear on that subject. It is perfectly clear, however, that it is not always the land actually bordering on a river that is valuable for power site; land at some distance back from a stream may often be valuable for power site.

Senator FLINT. Or the number of acres either?

Mr. PINCHOT. Or the number of acres either.

Senator FLINT. An acre might be all that is required?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. That consisted, as I recall it, of three or four different tracts of 40 acres each, that 150 acres.

Mr. PINCHOT. I am not thoroughly familiar with that. I have no direct knowledge.

Mr. PEPPER. I might say in answer to Senator Flint's question that in so far as the data are available I shall hope to give the committee specific information through Mr. Davis and Mr. Newell on this matter, suggesting the production of maps and other matter.

The CHAIRMAN. We need not pursue that at this time.

Mr. PEPPER. I thank you; because I think it will be plain to the committee that the point I am seeking to bring out through Mr. Pinchot is not what already happened, but what, in the natural course of things, would have happened but for his intervention in the matter.

Will you go on and read the reclamation certificate matter?

Mr. PINCHOT (reading):

As regards the issuance of cooperative certificates in work under reclamation projects, the Attorney-General has rendered two separate opinions declaring their issuance unauthorized by law, of which you are fully advised. The comptroller has likewise ruled on their invalidity.

Mr. Garfield has, so far as I know, made no effort to learn the real facts relating to any of these matters or to justly estimate my motives in connection therewith, which I very much regret, in view of our long friendship and in view of the fact that upon my retirement from the General Land Office he expressed to me in writing his appreciation of my services to the Government, and at which time he evidently believed that my motives in all matters affecting the public service were of the highest character. I attribute the change of spirit to the influence of others who have poisoned his mind with untruths. I have consistently endeavored in my official acts to avoid anything that would appear to be a reflection upon my predecessor, except where legal and administrative action seemed necessary.

Mr. PEPPER. Am I right in understanding that that matter of reclamation certificates is not one that was covered in your letter, but merely in Mr. Garfield's letter?

Mr. PINCHOT. Everything that goes before there was covered by Mr. Garfield's letter.

Mr. PEPPER. But specifically the reclamation matter. Was that a thing that you had raised at all?

Mr. PINCHOT. It was not.

Mr. PEPPER. Will you be good enough to pursue the reading of the letter?

Mr. PINCHOT. There is a dash across the letter here, and then it says [reading]:

As regards the letter of Mr. Pinchot above referred to, the illustrations which he sets forth as a demonstration of my unfriendly attitude toward the policy of conservation are easily refuted.

In the matter of his claim that there has been a failure of cooperation on the part of the General Land Office with the Forest Service in the efforts of the latter to secure the examination of the validity of the Cunningham coal claims and that there had been refusal to grant the Forest Service access to the records of said claims in the General Land Office, a full and complete statement has been heretofore presented you by Mr. Schwartz, Chief of Field Service. If any such failure of cooperation existed, no complaint thereof has ever been made by the Agricultural Department to the responsible head of the Interior Department. Manifestly, ordinary proprieties would have required some such direct communication and that an opportunity be given to investigate and act thereon before a charge would be justified that I sympathized therewith and was responsible therefor.

The inference deducible from Mr. Pinchot's statement that the former Secretary considered the Cunningham claims fraudulent and recommended amendatory legislation is not justified by the facts. In the report of the former Secretary to Congress, dated April 20, 1908, recommending amendatory legislation, he in terms advised

confirmation of unlawful entries, as appeared in the proposed bill in the following language:

"SEC. 9. That any persons, associations, or corporations who have obtained prior to the passage of this act claim or title to any coal lands of the United States by alleged unlawful means shall, upon proof to the satisfaction of the Secretary of the Interior *that the full coal-land price of such land as classified by said Secretary under authority of law has been paid to the United States*, may have their patents confirmed for not to exceed two thousand five hundred and sixty acres of such coal lands, if patents have issued, or if patents have not issued shall receive patents for not to exceed said area." * * *

This goes further than I ever suggested.

It has never been contended, so far as I am aware, that any actual, as distinguished from constructive, fraud was practiced by the Cunningham entrymen, the criticism of said claims being that the locators had through an unauthorized association or community of interest undertaken to secure patents to lands in excess of the legal limitation. Hence, had the recommendation of the former Secretary been adopted their patents could not have been withheld.

A reference to my annual report as Commissioner of the General Land Office of 1907 and the hearing before the Public Land Committee of the House, both of which have been reported by me to you, show the falsity of the statement that I was not in accord with legislation seeking to protect coal lands from monopolistic control.

There is grave danger in the furor that is being raised respecting the protection of the rights of the public in the public domain of doing injustice to persons who have initiated rights under existing laws, in the matter of securing a calm and dispassionate disposition of their rights, such as should be accorded all persons dealing with the Government; and the attacks made on public officers in connection with the administration of these affairs tend to cause them to act under such restraint of judgment as to frequently be guilty of injustice to the individuals dealt with, where there is any possibility of adverse criticism. The extreme solicitude for the general public is thereby often unjustly visited on the innocent entryman.

Mr. Pinchot's statement that a special decision of the present First Assistant Secretary rendered on May 19, 1909, would have validated the Cunningham claims without regard to whether they were located in good faith or not is not true, and the lack of foundation therefor could have been readily ascertained by inquiry directed to the Attorney-General. Primarily, that decision had absolutely no reference whatever to the Cunningham claims; the parties interested therein had announced their unwillingness and absolute refusal to proceed under the act of 1908, and it was a construction of the latter act only which was attempted in the Pierce opinion, afterwards reviewed by the Attorney-General. The latter does not overrule, but on the contrary is in entire accord with, the opinion of the First Assistant Secretary.

Mr. PEPPER. That ends the section on the Cunningham claims?

Mr. PINCHOT. That ends the section on the Cunningham claims.

Mr. PEPPER. Mr. Pinchot, will you please note that passage in the latter referring to the alleged lack of cooperation between the two departments. What is the fact about that?

Mr. PINCHOT. The fact is that the—

Mr. PEPPER. The fact is that there had been no complaint to the responsible head of the Interior Department?

Mr. PINCHOT. As a matter of fact—

Mr. VERTREES. That was refusal of information.

Mr. PINCHOT. Shall I read the clause again?

Mr. PEPPER. Yes.

Mr. PINCHOT [reading]:

If any such failure of cooperation existed, no complaint thereof has ever been made by the Agricultural Department to the responsible head of the Interior Department.

There are two things to be said about that: One that Secretary Wilson's two letters asking for delay in order to permit the Agricultural Department to cooperate, as it was required to do under the executive order of May 17, was in itself a substantial complaint; and the second is that any direct complaint would have been a complaint to Mr. Ballinger about Mr. Ballinger, therefore not valuable.

Mr. PEPPER. Mr. Pinchot, some statement is made there on the subject of the attitude of Mr. Garfield toward the pending coal claims. Will you just read that and comment on it?

Mr. PINCHOT. That applies to section 9. The quotation from section 9 of the act and the comment upon it by Mr. Ballinger is this:

This goes further than I have suggested.

The fact is that the difference, the essential difference, between the two points of view was, Mr. Ballinger proposed to allow these coal entries to pass to patent at \$10 an acre, or for \$50,000, about, while under Secretary Garfield's proposal the full coal-land price of such lands as classified by the Secretary of the Interior would have been exacted, which is an enormous difference; the difference perhaps of between thousands and millions of dollars; not as many millions as thousands, but a very large difference. The other point is, as I understand, that an antimonopoly clause was added by Secretary Garfield.

Mr. PEPPER. There is a suggestion there that your statement was untrue that Mr. Garfield considered these Cunningham claims as fraudulent. How about that?

Mr. PINCHOT. Mr. Garfield has specifically told me more than once that he did consider them fraudulent, and that he had so informed Mr. Ballinger.

Mr. PEPPER. Is that a point which you propose to cover by Mr. Garfield's testimony?

Mr. PINCHOT. That will be proved by Mr. Garfield.

Mr. PEPPER. Mr. Pinchot, in that letter there is an intimation that the claimants—the coal claimants—had not been guilty of anything but constructive fraud. What is the fact about that?

Mr. PINCHOT. The fact is that in order to get patents under what Secretary Ballinger called "constructive fraud" they would have been obliged to commit perjury.

Mr. PEPPER. Now, what have you to say respecting the testimony that Mr. Ballinger himself gave before the House Committee on the Public Lands on March 3, 1908?

Mr. PINCHOT. It is as good an illustration as I have ever seen of what is sometimes called "public-land conscience." This testimony says [reading]:

In my estimation—

This is Secretary Ballinger speaking.

Senator ROOT. From what do you read?

Mr. PINCHOT. I am reading now from a hearing before the House Committee on the Public Lands, March 3, 1908.

Senator ROOT. Is it something that is in evidence?

Mr. PEPPER. It is a document, an official document, that I will offer in evidence. It is from the Government Printing Office, and is a report of the proceedings.

The CHAIRMAN. Have you any objection to that, Mr. Vertrees?

Mr. VERTREES. No.

The CHAIRMAN. If there is no objection it is admitted.

Mr. JAMES. He was the Commissioner of the Land Office at that time?

Mr. PINCHOT. He was Commissioner of the Land Office until the following day.

Mr. VERTREES. You expect to offer the whole and not a part of the document?

Mr. PEPPER. Certainly.

The CHAIRMAN. You do not want the whole document printed, only what he reads?

Mr. PEPPER. I think it is fairer to Mr. Ballinger that the whole of what he said should go in.

The CHAIRMAN. Very well.

(The document is as follows:)

HEARINGS BEFORE THE COMMITTEE ON THE PUBLIC LANDS, MARCH 3, 1908, ON H. R. 18198, TO PROVIDE FOR THE SALE OF COAL DEPOSITS IN THE DISTRICT OF ALASKA, AND FOR OTHER PURPOSES.

THE COMMITTEE ON THE PUBLIC LANDS,
Tuesday, March 3, 1908.

The committee this day met, Hon. Frank W. Mondell in the chair.

The CHAIRMAN. We have before us this morning a bill introduced by Mr. Cale, relating to coal lands in Alaska (H. R. 18198), and although there is not a quorum present I think we may proceed at this time, owing to the fact that Judge Ballinger, very much to our regret and very greatly to our loss, leaves the position of Commissioner of the General Land Office in a couple of days, and as he has given a very great deal of attention to the question of coal lands I thought the committee would like to hear from him, before he goes out, on that general subject. I think it is important that we in the near future take this matter up as regards both the coal lands of Alaska and the coal lands of the balance of the public domain and decide, first, whether there shall be a change of law and, second, if there should, what form it should take, and while I am not prepared at this time, of course, to pass on that very large subject, while the commissioner can be before us it occurred to me that you would all be very glad to have his views both on this bill, which is confined to Alaska by its terms, and on the general subject.

We will proceed with the hearing on the bill (H. R. 18198) introduced by Mr. Cale, to provide for the sale of coal deposits in the district of Alaska, and for other purposes, and we will be very glad to hear from you, Mr. Commissioner, in regard to this bill and the general subject, if you care to discuss it.

STATEMENT OF MR. R. A. BALLINGER, COMMISSIONER GENERAL LAND OFFICE.

Mr. BALLINGER. Mr. Chairman and gentlemen, the coal-land act of March 3, 1873, is practically the only law we have to-day authorizing the disposition of coal lands. This law has, in my judgment, for many years ceased to be the kind of an act that is needed by the Government for the disposition of unappropriated coal lands. Since this law was enacted there have been only about 500,000 acres of lands taken under the act of 1873 and millions of acres have passed into private ownership under other methods. I am speaking now of the public-land States, and not in reference to Alaska. The public-land States have still a large area of lignite coals unappropriated, and an area, as I recall it, approximately like 14,000,000 or 15,000,000 acres of very high-grade coals unappropriated. In Alaska, however, there is a vast region of unappropriated coal deposits, the disposition of which should certainly be under quite a different system than is provided for by the law of 1873, and there have been special acts covering the disposition of the coal lands in Alaska, the variation from the act of 1873 being substantially, first, in a method of survey of the lands; second, a flat price of \$10 per acre, and a limitation of 160 acres, which I think was probably an inadvertence in the law, making the area to be disposed of in Alaska less than the area that might be obtained under the law of 1873 in the States.

Mr. CRAIG. How much land could be obtained in the States under the law of 1873, 320 acres?

Mr. BALLINGER. Three hundred and twenty, or 640 acres if an association invested as much as \$5,000 in improvements, but that seems to be by inadvertence not to have been carried into the Alaska statute.

In my last annual report in reference to this subject I used this language:

"This act limits the area to an unreasonably small acreage——"

That this, the act of 1873, limits it to 160 acres to an individual, 320 acres to an association of two or more persons, and 640 acres to an association that may have invested \$5,000 in improvements.

"This act limits the area to an unreasonably small acreage, prohibiting the prudent investment of capital in coal-mining operations; hence all kinds of subter-

fuge has been undertaken to avoid the provisions of the law. In the securing of these lands the unscrupulous have not hesitated to resort to perjury and fraud, carrying their schemes of fraud and corruption to such an extent as to amount to a national scandal. Title having passed, the Government possesses no guarantee that as a public utility the coal can be made available to supply the market. On the contrary, these lands have almost uniformly passed into the hands of speculators or large combinations controlling the output or the transportation, so that the consumer is at the mercy of both in the greater portion of the West. The inducement for much of the crime and fraud committed under the present system can be prevented by separating the right to mine from the title in the soil."

The act of March 3, 1873, referred to by Mr. Ballinger, is as follows:

"COAL-LAND LAWS—PART I—TITLE XXXII, CHAPTER SIX—MINERAL LANDS AND MINING RESOURCES.

"SEC. 2347. Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or an association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivision, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, by payment to the receiver of not less than ten dollars per acre for such lands where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

"SEC. 2348. Any person or association of persons severally qualified, as above provided, who have opened and improved, or shall hereafter open and improve any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the preceding section, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as above provided, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres including such mining improvements.

"SEC. 2349. All claims under the preceding section must be presented to the register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of three months from the third day of March, eighteen hundred and seventy-three, sixty days from the expiration of such three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this section shall be allowed until the expiration of six months from the third day of March, eighteen hundred and seventy-three.

"SEC. 2350. The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section twenty-three hundred and forty-eight shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

"SEC. 2351. In case of conflicting claims upon coal lands where the improvements shall be commenced, after the third day of March, eighteen hundred and seventy-three, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the third day of March, eighteen hundred and seventy-three, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The Commissioner of the General Land Office is authorized to issue such needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

"SEC. 2352. Nothing in the five preceding sections shall be construed to destroy impair any rights which may have attached prior to the third day of March, fifteen hundred and seventy-three, or to authorize the sale of lands valuable for mines of gold, silver, or copper."

Mr. BALLINGER. The theory of separating the title of the deposits from the soil and disposing of the coal deposits is one to which I have given a great deal of study, contradistinguished from the disposition of coal lands by a leasing system, and the reasons which prompted me to consider this matter as more available on the theory of the disposition by sale of deposits rather than by lease of the coal lands are set forth in the following memorandum, which, if you will pardon me, I would like read:

CONSIDERATIONS FAVORING THE SALE OF COAL DEPOSITS IN PREFERENCE TO THE LEASING THEREOF.

"Relative to the comparative methods of the sale of coal deposits in public lands under limitations as against the lease thereof, I am of the following opinion:

"That either method will enable the conservation of the remainder of the unappropriated coal in the public domain as a public utility, and will permit of regulations to prevent combinations in restraint of trade in coal, or restrain the tendency to create monopoly therein.

"The advantages of the sale method appear to me to be numerous and controlling, and are substantially as follows:

"First. Under a sale of a deposit an owner would not need that supervision that a lessee would necessarily be under in the matter of protecting the mine as against wasteful and ruinous operation. In operation it will be found that a lessee will naturally have an incentive to produce as much coal, with as little expenditure in honest development, as possible, resulting in many cases of robbing the mine—that is, leaving insufficient timbering, pillars, air shafts, etc., to maintain its permanency while the coal is being removed; and the high grade, or more valuable coals, will often be worked out and the low grades left in the mine, resulting in a total loss thereof to the public. Furthermore, upon the termination of a lease or other abandonment, Government maintenance will be necessary in many cases which would not occur under the lease system. Government maintenance would mean retimbering and a continuance of physical improvements to prevent decay and loss of the deposit from fire, caveins, etc. It is true that in case of forfeiture under the sale of the deposits similar maintenance would be necessary except upon a resale, but the cases in which forfeiture would occur under the sale system would be small compared with the abandonments and forfeitures under the leasing system.

"Second. The collection of rentals, royalties, or tolls, as the case may be, under a leasing system will necessarily involve the maintenance of a numerous body of government employees at great expense to the Government and add further expense for a detailed system of accounting. This increased expense involved in the leasing of coal deposits will, of necessity, increase the price of coal to the consumer and will also be a constant menace in administration, as likely to produce, in many instances, public scandal and corrupt practices. These objectionable features would appear to me to be practically removed under a sale of the deposits.

"Third. Regulations, under a leasing system, will be likely to trench upon the police power of the States as to mine inspection, supervision, and regulation, where under the sale system there could be little or no conflict.

"Fourth. In the operation of a coal mine under a lease from the Federal Government the lease would necessarily have to be so worded as to protect the Government against liability for negligence on the part of the operator, resulting in loss of life or destruction of property. In case the Government's agents were likewise grossly negligent in enforcing the regulations a grave question is presented whether or not the Government is not at least morally liable.

"These considerations of advantage in favor of a direct sale of the coal deposits separate from the land, with sufficient limitations to insure a normal output and to prevent combinations in restraint of trade in coal, satisfy me that the leasing system is not practicable in operation as compared with the other.

"A direct sale of the coal deposits is more in harmony with the established public land policy of the United States, and it will doubtless be conceded that the leasing of pasture lands or grazing areas is wholly feasible, while the leasing of mineral deposits, which have to be mined under conditions requiring special inspection and supervision, is not parallel, and that the favoring of the one does not necessarily imply the favoring of the other."

Along this line the bill which is now before your committee provides for a sale of the deposits in the district of Alaska. The first section of this bill provides for the

classification of the coal lands in Alaska by declaring "That all vacant surveyed and unsurveyed public lands in the district of Alaska containing workable deposits of coal are hereby classified as coal lands." It provides in the next section the persons who may purchase the deposits, and you will observe in lines 13 and 14 of the bill it provides that in case coal deposits are found under contiguous lands where the entry was not completed and discovery existed prior to the completion of the entry, that the deposit in such cases may also be sold, but where the discovery is not made prior to the completion of the entry the person who secured the land would take it free from any such classification. I wish at that point to call your attention to line 20, page 2, and line 3 on page 4 of the bill, and would suggest that in place of the words "issuance of such patent" that the words "completion of the entry" be inserted, so as to conform to the language in line 2 of page 2. It seems to me the right should terminate on the completion of the entry. The right of taking any coal that may be discovered subsequent to that would be terminated.

The CHAIRMAN. It is not my intention, Mr. Commissioner, to interrupt you in your statement to any extent, but I simply wish to make the suggestion that the provision in that section as to the amount of surface that might be required is a little indefinite and possibly might have to be worked out a little more.

Mr. BALLINGER. It will be found in practice that every case will be different as to the amount of surface that will have to be required for operation purposes. The amount of the ground would materially affect the surface that would be required, and the language of the statute ought to be as specific as possible and yet sufficiently elastic to allow the administrative officers to give all that is necessary.

The CHAIRMAN. In other words, we might make a provision, if we enter upon the plan, that the original application should withdraw the surface until an adjustment of the question of the amount of surface that would be required for the operation.

Mr. BALLINGER. Yes, sir; it says in the latter part of the second section, in the exceptions:

"Except the right to such use and occupancy of such surface as may be necessary to the mining and sale of the coal purchased by them, which shall be included in such purchase and fully defined."

The CHAIRMAN. You would suggest that the title to so much surface as may be necessary for those operations should be in fee?

Mr. BALLINGER. No, sir; it would be practically an easement running with the sale of the deposits, and so long as there were any workable deposits of coal upon the land this easement would continue with the right to work out those deposits.

The CHAIRMAN. In practical operation would not that be pretty trying to the operator? Suppose he took 1,000 acres of coal and he needed 160 acres of surface for one point for his main operations, upon which he would have to put very expensive machinery and upon which he would have to build houses for his employees or otherwise improve it at a vast expense, and over which he ought to have exclusive control.

Mr. BALLINGER. He would have exclusive control so long as there was no forfeiture of his right to mine coal in the deposit that existed in the ground.

The CHAIRMAN. But suppose this condition of affairs which often exists in a community after coal operations had ceased. It is a frequent occurrence that a coal operation builds up quite a community and that valuable improvements are placed upon such lands, and oftentimes when the operation ceases, by reason of the growth of the community and the development of the surrounding country, the community with its churches, schoolhouses, stores, and residences, continues to exist independent of a coal operation, in which event the question would arise as to who would be entitled to those lands upon which such valuable improvements had been made and to what such a variety of rights had attached. It has occurred to me that the grant should be limited and restricted in the interest of permanent development; that there ought to be an assurance of permanence of title, as the mere working out of a coal vein would throw titles into vast confusion.

Mr. BALLINGER. I would have no objection, as far as I can see, of giving a definite fee-simple title to the specific portion of the ground that may be necessary for the development.

Mr. SMITH, of Arizona. What of the subsequent development?

Mr. BALLINGER. The purpose is to grant, in the first instance, as much of the surface of the land under which the deposit lies as will be necessary or convenient to work out that deposit.

Mr. SMITH, of Arizona. Who will consider what is necessary and convenient?

Mr. BALLINGER. That would be decided in each particular case as to the conditions of the deposit.

Mr. SMITH, of Arizona. By whom?

Mr. BALLINGER. By the Secretary of the Interior, as provided in this bill. If you are going to separate the deposit from the soil it occurs to me that the safest way is to grant only the easement as you do to railway companies for rights of way and for station uses.

Mr. SMITH, of Arizona. If the committee will bear with me, what is the object of the separation?

Mr. BALLINGER. The object of the separation mainly is to give control as against the monopolization of the deposit and lodge that control in the Secretary of the Interior by such regulations as will prevent the combination and monopolization of the various deposits that may be disposed of. Second, to provide for a development that will not hold the lands purely for speculative purposes. In Alaska it is an important question that these coal deposits be disposed of so that the Government may have a development in those deposits which will secure coal for naval purposes. The best coals we have on the Pacific coast are in Alaska, and the Government should have some supervisory control over the development and disposition of those deposits, so that they will not fall into the hands of large corporations and extortion be demanded in the sale of the coal or the coals withheld from development, and it was along that theory and because of those reasons that the suggestion existed for selling the deposit rather than selling outright the fee simple to the land.

The CHAIRMAN. Might it not be possible, just as a suggestion, that the land and coal be sold together and still retain the control which is suggested in the subsequent paragraphs?

Mr. BALLINGER. It is entirely possible to do so, but, comparing the system in the States, you have a great area in some localities that is underlaid with coal and that is valuable for other purposes—for settlement purposes, for timber, and possibly for other minerals. Now, in Alaska, I understand in some of the regions where the coal deposits are there are other valuable minerals in the same lands. As a general thing, the precious metals are not found in the same lands under which you find the coal deposits. It is very rare, but I understand it does exist in some localities in Alaska, so that this could provide a method by which the placer deeds could be disposed of through mineral entry on the one hand, and the sale of coal upon the other, and the two could go on in development without interruption, and the same if it was copper or marble. You will find in the coal deposits valuable deposits of stone or fire clay and other products that are classed as minerals, and the suggestion here is to sell the one thing to the purchaser and to allow him to acquire sufficient land either by easement or otherwise—the bill suggests by easement—sufficient land to enable him to develop the coal and market it. It may be deemed advisable in Alaska, where there are no agricultural lands or no timber upon the lands or no other minerals or valuable products that the Government would want to dispose of in some other way, to sell the land and all.

The CHAIRMAN. The presence of mineral on coal land is an exceedingly rare thing. In all my experience I know of no such case in the States. As a matter of fact, it is pretty nearly geologically impossible for a coal deposit and a mineral deposit to occur in the same land. The only exception, it seems to me, so far as the metals are concerned, would be the case of a possible placer.

Mr. BALLINGER. So far as other minerals are concerned, fire clay very frequently occurs.

The CHAIRMAN. Yes, sir; any sedimentary mineral might occur, but do you think we should attempt separation of titles in the same land to the extent of granting one to the coal, and the limestone to another, and so on?

Mr. SMITH, of California. Do you know whether the agricultural side of the case needs to be considered?

Mr. BALLINGER. I would not think it needed to be considered in Alaska at all. That is my understanding of the nature of the country where these deposits have already been discovered. The Katalla coal field is a rough and broken country, as I understand it, and does not possess any agricultural land within its limits.

Mr. SMITH, of California. Any timber?

Mr. BALLINGER. There is some scant scattering of timber, but not enough to consider it from a commercial standpoint, as I am informed.

The CHAIRMAN. Not even enough to timber the mines?

Mr. BALLINGER. It is enough for that, but not to be considered in any other respect, and for that reason the timber was eliminated.

Mr. SMITH, of California. In considering the subject of the segregation of the coal from other features of the land we can eliminate the agriculture and timber possibilities of the land?

Mr. BALLINGER. So far as Alaska is concerned, I would say yes.

Mr. HALL. Has there been any considerable development of the coal industry in Alaska?

Mr. BALLINGER. There has been no development except upon the main field owned by Mr. McDonald who has taken out a few hundred tons.

The CHAIRMAN. There have been many entries made in Alaska under the law and a great many declaratory statements have been made.

Mr. BALLINGER. The records of the General Land Office show that 21 entries have been made in Alaska amounting about 1,250 acres, made in the coal fields that are near the Koyuk River in the Alaska district, and from about a third of way out a year that a total of about 46,000 acres of coal lands have been covered in the district. No other coal entries have been made in Alaska and the General Office is without information as to the number of locations which may have been made in various localities.

The CHAIRMAN. Since November 1900, if I recall rightly—

Mr. BALLINGER. November 12, 1900.

The CHAIRMAN. There has been a withdrawal of all the coal lands in Alaska that there has been no opportunity to make or the declaratory statements since that time.

Mr. SMITH of Arizona. How were those lands withdrawn?

The CHAIRMAN. By a general order.

Mr. SMITH of Arizona. In issuing the chairman. Under what authority?

The CHAIRMAN. The chairman knows of no authority of law.

Mr. BALLINGER. Section 1 of the bill introduced by Mr. Hale provides for a year of exploration, and when the explorer has a preference during the period, first of the year, and then he may extend that period another year by making a small payment.

The CHAIRMAN. That is in section 1.

Mr. BALLINGER. In section 1.

Section 4 provides a method of forfeiture for failing to mine and offer coal to the Government and not by an executive order—by a court proceeding.

The CHAIRMAN. I would like to discuss with you briefly the first provision which provides or not be instituted upon the failure of the purchaser to mine and offer for sale a certain such reasonable amount of coal as shall be prescribed by the Secretary of the Interior. As to that provision it occurs to me that it would be very difficult to work it out in a practical way, owing to the widely differing conditions that surrounded the mining of coal. We all know that in order to have an adequate supply of coal at all times for every possible demand there should be and must be considerable number of openings and operations and facilities for production at the present uniform and continuous demand. In other words, the coal market is a very uncertain one. It is limited in the summer, in many regions almost none, and it increases largely in the winter, and particularly as to those coals that cannot be stored and where summer working can not be carried on for that reason.

Mr. SMITH of California. That does not apply to Alaska?

The CHAIRMAN. I understand some of the northern Alaska coals are of that nature. Possibly the hard coals in Alaska would not be first worked.

Mr. BALLINGER. There are lignites in Alaska which are subject to disintegration when in the atmosphere.

The CHAIRMAN. The thought which has occurred to me in this connection is this. If we lay upon the mine operator restrictions as to his right or claim or ownership reason of his failure to mine each quarter a given amount of coal from each entry, the result might be to discourage such large and extensive development as should be encouraged and which ought to be encouraged with a view to supplying every possible demand in the future and with a view of meeting every probable increase in the demand. I am in sympathy with the evident object of the provisions, but fear that it might have the effect of limiting rather than increasing output.

Mr. BALLINGER. The purpose of this section, as I think you will see from its language—

The CHAIRMAN (interrupting). I am speaking now only of the first paragraph, relating to the requirement of a given minimum of production.

Mr. BALLINGER. That should be, in my estimate, a very low minimum, and it should be fixed definitely as to the mines generally, but the main feature of the section is intended to prevent combinations in restraint of trade in coal.

The CHAIRMAN. Does it occur to you that if we conclude to adopt the second portion of that section as the rule for coal entries, it might be possible to eliminate the first paragraph, with regard to the minimum production, from the section?

Mr. BALLINGER. That could be eliminated. The loss would only be as to the continuing working or a continued working. Where the parties were required to go down for some reason it might be explained to the Secretary of the Interior. I call your attention to the fact, Mr. Chairman, that unless the regulations under such a provision you have called my attention to were made extremely liberal and easy of enforcement it would

ave a deterrent effect upon anyone taking hold of development. The same is true in regard to the regulations covering the leasing of coal lands where the restrictions are burdensome. The last proviso was put in with the intention of relieving such conditions so that they would not be burdensome, or, in other words, discourage people from going into coal-mining enterprises. They could only be forfeited for a breach of one or more of the conditions imposed, and my idea is that the forfeiture should not be left to an administrative officer but should be left to the courts.

The CHAIRMAN. As a matter of law, do you think that the provision contained in section 4 is clearly sufficient to indicate the manner and form of proceedings that might be had to enforce a forfeiture under the conditions prescribed?

Mr. BALLINGER. I think so, Mr. Chairman. It should require a proceeding in equity in a court of competent jurisdiction, alleging the grounds of failure or breaches of the contract of purchase with the Government.

Mr. SMITH, of California. What would be the nature of the market for the coal? Will it be exported to the States and be used by the navy on the Pacific coast?

Mr. BALLINGER. The coal in Alaska?

Mr. SMITH, of California. Yes, sir.

Mr. BALLINGER. The market for the Alaskan coal would be, in the first instance, the States bordering upon the Pacific and the navy.

Mr. SMITH, of California. Would there be any considerable home consumption, such as we find in the States?

Mr. BALLINGER. Not a great deal, in my estimation. The home consumption for some time to come for the ports of shipment to which demands might come are widely separated in Alaska. Shipments to Nome would not be much more feasible from Valdez than from the ports of Puget Sound on account of the steamship lines.

Mr. SMITH, of California. Are there transportation facilities now to get the coal out?

Mr. BALLINGER. No; not to these mines. They have no railroad into the mines at this time, as I understand.

Mr. SMITH, of California. We must make such disposition of the coal as will encourage the building of a railroad?

Mr. BALLINGER. That is one of the main objects of the entrymen, as I understand it.

Mr. SMITH, of California. Then we may look at the production of coal as a matter of exporting it out of Alaska to the States and to the uses of the navy on the Pacific.

Mr. BALLINGER. That is the principal object of opening these fields.

Mr. HALL. Approximately how far are these fields from the coast?

Mr. BALLINGER. The Katalla field, I think, is about 25 miles from tide water.

Mr. SMITH, of California. Are there any cities in the vicinity needing fuel?

Mr. BALLINGER. Not much more fuel than they get from the steamers running back and forth from the States.

Mr. SMITH, of California. Have you considered the advisability of drafting a law applicable to one or two particular localities where we can understand the conditions and not undertake to make the law applicable throughout that vast country?

Mr. BALLINGER. The conditions do not particularly vary in Alaska. It seems to me that any law that you enact should be a law generally applicable to the Territory. The Matanuska coal field, which is about 80 miles from the terminus of the Alaska railroad—I think that is about right—is also a very large coal field of a high-grade character of coal, and there is an untold field of vast area of coal up in central Alaska, and whatever legislation is enacted for Alaska should embrace that field and all the other fields, in my estimation.

Mr. SMITH, of California. You think that the same legislation can be applied successfully to all the fields?

Mr. BALLINGER. Yes, sir; absolutely. There are along the coast in certain places shown by the Geological Survey map various coal deposits, and as you will notice by the green marks on this map [exhibiting] they are scattered over various localities in Alaska. Some of those deposits are low-grade lignites which it would not pay to work if you expected to export it.

Mr. SMITH, of California. Do you not think it would be better for us to frame a law applicable only to the better grades of coal and leave the lignite question for consideration in another bill?

Mr. BALLINGER. I would cover the whole thing by one measure and give some elasticity to the price of the coal. For instance, in line 4, instead of fixing the price at \$10, I would say "not less than \$10," but upon the coals already entered or located I could leave the price as it heretofore was, a flat price of \$10 an acre. As to the disposition of the coal areas under future legislation I would leave that elastic, so that the higher grades of coal could be sold at a higher rate than \$10 an acre.

Mr. SMITH, of California. I was not referring so much to the price, but the conditions which should be exacted?

Mr. BALLINGER. It would be practically the same thing in any part of Alaska.

The CHAIRMAN. As a matter of fact, with the exception of the question of surveys which would have to be specially provided for in Alaska, would it, in your opinion, be very difficult to frame legislation that would fit the coal situation generally in the United States, including Alaska, in one measure?

Mr. BALLINGER. The only other consideration that Alaska might claim as different from the States would be the consideration of the extraordinary expense of development in that far-distant Territory, of getting machinery into the interior, because some portions are more accessible than others, but there should be a liberal disposition exercised regarding the development of those fields, perhaps more liberal than in the States, where the places are easily accessible by railroad connection and transportation.

Mr. MCKENZIE. We now have to bear the expense of the survey?

Mr. BALLINGER. Yes, sir; the expense of the survey is also imposed upon the entryman in Alaska, but it is not imposed upon the entryman in the States, as they take the lands surveyed through the public land survey and enter them according to the legal subdivisions. I would say that outside of that it has always been my belief that the laws generally applicable to coal deposits in the States should be made applicable to Alaska; that is, any new legislation that might be enacted seems to me, should be enacted broad enough to cover the coal deposits in the States as well as in Alaska, with the exception that the lands in Alaska have to be surveyed by the entryman or by the locator at his own expense, as has been stated, which is an additional disadvantage that the people are laboring under in going into that country.

The CHAIRMAN. And that should be taken into consideration in considering the question of the price of the land?

Mr. BALLINGER. I would compensate that in some satisfactory way. As to the matter of the price, I can see no reason why the deposits should not be handled in Alaska and in the States along the same method as to their disposition.

The bill in conclusion provides in the seventh section that the locator may mine coal from the time of his location under regulations which the Secretary of the Interior may impose, the idea being that the Secretary may grant to locators permits to immediately proceed to develop and mine coal so that the coal measures may become available without delay.

So far as the uses of the navy are concerned and the demand for coal upon the Pacific coast, the last section of the bill provides for a consolidation of existing entries and does not call for the proof of good faith of the original entry or location. There are a great many charges pending against some of the original entries in Alaska. At the time these fields were located corporations were organized. The men had no method of taking advantage of these coal measures. It resulted in their getting involved in conditions which upon the records of the Land Office are a technical violation of the statute, and it is a situation which should be cleared up. In my estimation it has not been the intention of the people in the field nor in Alaska to put themselves in hostility to the laws, but they have been in a position where they could not by virtue of the circumstances accommodate themselves to the laws, and with this last provision they could transmute their present entries into the form suggested by this bill and the new entries would be treated as primary entries. In other words, it would be an abandonment of the old conditions which have made a great deal of difficulty in the matter of the disposition of the land in many instances.

The CHAIRMAN. May I call your attention to section 5, which provides for the entry of the surface of lands which may contain coal?

Mr. BALLINGER. That provides for the entry under any form known to the public land laws that is not in conflict with the rights that may exist in the sale of the deposit or the amount of surface that may be necessary.

Mr. SMITH, of California. As these lands have no agricultural or timber value, will not change that feature and let the title to the surface remain in the United States so that there may not be any conflict between the coal miner and the surface holder?

Mr. BALLINGER. So far as Alaska is concerned, I do not know of any instance where the Government would benefit by the reservation of the surface.

Mr. SMITH, of California. I can readily foresee conflicts between the owner of the surface and the coal miner. The coal miner might want a new road or might want to do something which would very much irritate the owner of the surface, and it seems to me from your statement that it would be better to withdraw the surface from entry.

Mr. BALLINGER. I have no personal knowledge of coal areas in that respect, but am strongly of the belief that the retention of the surface would be of no beneficial use.

Mr. SMITH, of California. It would not benefit the United States?

Mr. BALLINGER. That is what I mean.

Mr. SMITH, of California. But it would prevent conflict between the dual owners of the land. After the coal was mined out, if we could dispose of the land, we could do so.

The CHAIRMAN. You have no definite knowledge of the existence of any multifarious minerals on such land?

Mr. BALLINGER. In Alaska, I am reliably informed, there are in some instances placer locations upon lands known to contain workable coal.

Mr. SMITH, of Arizona. How could you possibly do that; how could anybody go in and work the separate metals and divide them up?

Mr. BALLINGER. We divide the placer and the lodes.

Mr. SMITH, of Arizona. I am familiar with that, but nobody has ever seen it done.

The CHAIRMAN. That is a theory of law which is largely a fiction. However, if we attempt to separate mineral which might be discovered subsequent to the coal purchase and allow that to be entered under the mining laws we might be granting one man the mineral for nothing while we charged another man \$10 for the coal. It seems to me that even though there might be some small placers not known at coal purchase the Government is not losing anything if they pass with the coal. However, this would be true in Alaska, as elsewhere, unless some provision were made to the contrary; if known placers of value existed on any of this land they would be entryable under the placer acts in any event and not under the coal laws.

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. And that in itself would protect the placers if they are known to exist?

Mr. BALLINGER. If you sold the lands under the present law?

The CHAIRMAN. If we sold them with the present requirement of proof of nonmineral character, we unquestionably would. If any known placers existed they could not pass under those conditions, provided the placers were proven of value.

Mr. BALLINGER. That is true. The present law has this exception in it, that coal lands may be disposed of in the way specified by the act, and that the classification of the lands as coal lands takes precedence over any other character that the land may possess except where it contains gold, silver, or copper, and in such a case I apprehend that the ruling would be if they contain workable deposits of gold, silver, or copper, that they would cease to be entryable as coal lands.

The CHAIRMAN. Then they would have to pass under the mineral law?

Mr. BALLINGER. Yes, sir.

The CHAIRMAN. The mineral claimant would get the land for \$5 per acre, or he might work the placer out without making payment at all, which is often done.

Mr. SMITH, of Arizona. The coal entryman would get all the coal under the surface?

The CHAIRMAN. Yes; it seems to me from the standpoint of the Government that we would get more out of it, if it is a matter of cash that actuates this legislation, by allowing the surface to go with the coal deposit rather than to grant the surface to another party practically free, and, under the conditions suggested by the gentleman from California, we might bring about a very serious conflict; the claimant of the surface might simply use his claim for the purpose of blackmailing the miner.

Mr. BALLINGER. The reserve of the surface except in so far as an easement should be granted with the sale of the deposit was to reach largely the areas that are agricultural and that might have coal deposits under them.

Mr. SMITH, of California. It was with that in view that I suggested that we frame this law to meet the Alaskan situation.

Mr. BALLINGER. I understand your point exactly. My understanding is that these lands, so far as the known coal deposits are concerned, are not agricultural lands.

Mr. SMITH, of California. Let us not, then, dispose of the surface, and thereby not inject the possible element of confusion.

Mr. BALLINGER. This deposit at Katalla is right at the foot of the mountains and Controller Bay, and there are no agricultural lands in that vicinity, as I understand it. In the Matanuska district, over here [indicating], it is a rough and broken country, and there are no probable agricultural possibilities.

Mr. SMITH, of California. Then I think we had better strike out section 5 and not dispose of the surface at all.

Mr. SMITH, of Arizona. Why would it not be better for the development of the country to limit the amount of coal holdings to a reasonable amount to any one person or corporation and put a prohibition on the further holding by any one person or corpo-

ration? Why would not that prevent a monopoly of these coal lands and work much easier than the proposition laid down in the bill?

Mr. BALLINGER. That is substantially getting at the same result.

Mr. SMITH, of Arizona. But you would leave the developer so much freer; the holder so much more secure.

Mr. BALLINGER. I am perfectly in accord with any theory that will get the results that are sought to prevent monopoly in coal, enforce the development, and give the Government an opportunity to get coal for its navy and for other public purposes at a reasonable price. When that can be accomplished that is all the Government should be looking for, in my estimation.

The CHAIRMAN. It is true, however, Mr. Commissioner, that it is almost impossible to follow a title with an entailed condition.

Mr. BALLINGER. Yes, sir; I am inclined to think that this payment is much better for us and one which would check and follow the title, for various reasons. First, that it is impossible for us to determine what areas might be required for a single operation in a given case. If we were going to limit the area in a single ownership, we might put it so small that ultimately it would very largely hamper operations. On the other hand, the provisions of section 4, the latter part of section 4, it seems to me, meets that condition by providing that the title shall always be held subject to proceedings that may be instituted under given conditions.

Mr. SMITH, of California. You can not prevent individuals from forming corporations and acquiring the lands?

Mr. BALLINGER. That has been the difficulty of administering the present law; it has been impossible to uncover the workings of the entrymen.

Mr. SMITH, of California. Could you prevent the same members from forming another corporation and taking more land?

Mr. BALLINGER. Unquestionably; either directly or indirectly.

Mr. SMITH, of California. That would require that no one person should be a stockholder in two corporations, and that would make it necessary to follow up each share of stock, which would be very laborious?

Mr. BALLINGER. As to the area involved, I am satisfied, as I stated before, that the Government should grant a liberal area of 4 or even 5 or 6 sections enough to warrant the investment of the amount of capital necessary to make the development.

Mr. SMITH, of California. The central idea of this bill is to get a certain amount mined?

Mr. BALLINGER. Yes, sir; to make them produce. I have some suggestions for amending the bill in some slight particulars which I will file with the committee.

The suggestions referred to are as follows:

It is suggested that the bill should be amended by adding to line 4, page 2, after the words "price of," the words "not less than," for the reason that it would appear that valuable deposits of anthracite coal, or lands containing large quantities of semibituminous coal, should not be disposed of at the same rate per acre as the lower grades of bituminous coal and lignites. By the amendment suggested the Department of the Interior will be enabled to classify and dispose of the coal deposits at prices commensurate with their ascertained value. Amendment of line 3, page 4, insert "completion of the entry by final proof and payment" instead of "issuance of such patent."

Line 3, page 6, should be amended by inserting after the word "other" the word "qualified," so that assignments of existing coal locations may not be made to and title acquired by persons, associations, or corporations who have already exhausted their rights under the existing coal-land laws.

Thereupon the committee adjourned.

STATEMENT OF DONALD A. MACKENZIE.

In response to your request that I make a statement respecting conditions affecting coal locators or entrymen in the district of Alaska, I submit the following:

Long before any attempt was made by Congress to extend the coal-land laws to the district of Alaska a number of persons went into what is now known as the Bering coal fields near Controller Bay, and prospected for coal and oil. They discovered some splendid deposits of coal. Each of them located a coal claim of 160 acres and later associated themselves together and combined their claims by putting them into the holdings of the company. They went to work in good faith to open up and develop their properties, and by the time this field was first brought to the attention of the United States Government they had so advanced their operations that they were able to show the representatives of the Geological Survey many veins they had exposed, and the Government, in this way, received the benefit of their efforts and expenditures. Other persons followed them into the coal fields and the land was

soon largely taken up in the same manner by small associations, the individual members of which would locate contiguous tracts. This combination of interests was the result of necessity, as this was a very expensive country to operate in. The expense of getting provisions and tools from the salt water into the interior is almost prohibitive and the operations that have been carried on up to the present time have cost the locators a far greater sum than it cost the early locators in the States.

By the act of June 6, 1900, Congress attempted to extend the coal-land laws to the district of Alaska, but the act made no provision for a survey, and as the public surveys have not even yet been extended to Alaska it was of no force or effect. In 1904 another act was passed, which provided for the making of a survey at the expense of the locator, a burden imposed upon the locators in Alaska that is not borne by entrymen in the States. The cost of survey alone is considerable, as the country is very rough and mountainous, and in the region of the coal fields there is considerable rainfall. During the past year there was one month during which it was not possible to prosecute such outdoor work for more than ten days. To send in a surveying party to make a survey of a single claim the cost would be practically prohibitive. It is, therefore, essential that the entrymen combine and let a contract for the survey of a large number of claims and all share proportionately in the expense. It costs as high as \$800 to survey some of the claims.

After the passage of the act of 1904 the persons holding claims relocated them under the new law. But under the rules and regulations of the Land Office they were not permitted to form companies or corporations before receiving patents, and at the present time some patents are being held up under the law as thus interpreted by the Interior Department. To my knowledge there has been no fraud, nor attempted fraud of any kind discovered. The lands were entered as coal lands, and the highest price the Government receives for public lands will be paid for them. There is no instance where any person has attempted to take up coal land as a homestead or with scrip or in any other manner than under the coal-land law, and the only violation of the law has been a technical one in the forming of companies, and I believe that there are less than forty claims in the Bering field now held by companies in the manner above referred to.

Everything has been open and aboveboard. It may be that the locators were somewhat careless in not ascertaining the provisions of the new rules and regulations, but it has been the custom of Alaskans, and I believe this custom has prevailed throughout the West generally, to feel that when a person found anything of value on the public domain he could appropriate it and rest secure that his right thereto would be recognized and respected.

There is even more excuse for an Alaskan to make such a mistake, as the country had been for a long time practically without law. The people had been a law unto themselves and had made rules and regulations to govern their mining operations. The idea had grown up and developed that they had a right to do this and that the United States would eventually pass laws recognizing the rights thus initiated. In view of these facts we feel that it would be but a simple act of justice for Congress to condone technical violations of the law due to honest mistake and so revise the law that we can perfect our titles to these lands and proceed in a businesslike way to open up the coal mines so that the people of the Pacific coast and our navy can purchase American coal of as high a grade and for less money than they are now paying for Welsh coal, which is about equal in heat-producing qualities. I have been informed that the Government will pay \$1,800,000 for coal on the Pacific coast this year, also that most of this is foreign. This money should go to Alaskans, and we would be in position now to furnish this coal had the laws been so framed as to permit the coal to be mined.

The law as it now exists permits every individual who cares to enter coal land to take 160 acres in a single body. One tract of 160 acres in Alaska is practically worthless, and in order to work the properties profitably several claims must be worked together. It has been estimated that it will cost all the way from \$200,000 to \$500,000 to properly open up and work a coal mine on an economical basis. To justify such an expenditure each location should contain from 6 to 8 sections. To illustrate the impracticability of operating a single claim of 160 acres in this country, let us say that A has a claim on the creek level where he can obtain an outlet to salt water; B has a claim farther up the mountain, and C, D, and E are still farther up. B, C, D, and E are compelled to come over the property of A, so that their claims are absolutely worthless unless they can cooperate with him. The chances are that one tunnel, which may be a very expensive operation, will develop all five claims. It would, of course, be a difficult matter to enact a law that will exactly fit all cases or to prescribe the exact amount that should be included in a mining property. In some instances probably as much as 5,000 acres should be worked as a single claim to produce the most economical results, while in other cases a less amount might be worked profitably.

We feel that some legislation is needed and that it is incumbent on the Government to deal fairly with us and protect the pioneers in the rights they have initiated and are now asserting. We believe it is the desire of the Land Department to do this if the law is so revised as to permit. There have been some technical violations of the rules and regulations of the Land Department by many of these claimants, but such violations were the result of honest mistake, and we trust Congress will take into consideration the difficulties under which they labored and also remember that the miners of the North are many miles from Washington and that few of them are versed in the law. We think such legislation should be enacted as will permit us to open up these coal claims and have our product on the market for the American fleet now in the Pacific during the year 1908. If Congress will do this I believe it is a safe prediction that it will add 50,000 to the permanent population of Alaska in the next five or six years, for the placing of the coal mines in operation will be an inducement to the development of the copper and other minerals of the interior and to the building of transportation lines. Railroads are very timid about investing capital to build into the coal fields until this all-important question of title to the land is settled. There is plenty of capital ready and willing to carry on this work and several lines have already been projected, but it is doubtful if anything more is done by them except to hold their positions until this matter is adjusted.

There is no work that will go forward more rapidly and none that will add so quickly to the increased wealth of the country as the development of the coal of Alaska, and this work will be pushed vigorously if Congress will encourage it by suitable legislation.

Mr. PEPPER. But the thing I want to emphasize now is the part that Mr. Pinchot will read.

Mr. PINCHOT. I will begin a little further back than I started [reading]:

There are a great many charges pending against some of the original entries in Alaska. At the time these fields were located corporations were organized. The men had really no method of taking advantage of these coal measures. It resulted in their getting involved in conditions which upon the records of the Land Office are a technical violation of the statute, and it is a situation which should be cleared up. In my estimation it has not been the intention of the people in the field nor in Alaska to put them in hostility to the laws, but they have been in a position where they could not by virtue of the circumstances accommodate themselves to the laws, and with this last provision they could transmit their present entries into the forms suggested by this bill, and those new entries would be treated as primary entries. In other words, it would be an abandonment of the old conditions which have made a great deal of difficulty in the matter of disposition of the land in many instances.

Mr. PEPPER. What you said a moment ago had reference to the suggestion of their not doing anything illegal, but could not conveniently accommodate themselves to the law?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Was there any question as to whether or not there was included in that reference a reference to the Cunningham claimants? Do you find anything in else that testimony which shows that the commissioner had the Cunningham claims in mind?

Mr. PINCHOT. On page 9 of the same document Mr. Ballinger is quoted as saying:

The records of the General Land Office show that 33 coal entries have been made in Alaska, embracing about 5,280 acres, made in the local office for coal lands near the Bering River, in the Katalla district, and from information on file it would appear that a total of about 66,880 acres of coal lands have been located in this district. No other coal entries have been made in Alaska and the General Land Office is without information as to the number of locations which may have been made in various localities.

Mr. PEPPER. Are those 33 entries the so-called Cunningham group?

Mr. PINCHOT. I think there can be no doubt about that.

Mr. PEPPER. In point of fact, those were the only claims that had been proved up at that date?

Mr. PINCHOT. They were, as I understand it.

Mr. PEPPER. Will you note, please, Mr. Ballinger's suggestion in what you have just read respecting the unjust visitation on innocent entrymen? Do you understand that to have any reference to the Cunningham claims?

Mr. PINCHOT. That hasn't any reference to the Cunningham claimants. It can be properly commented upon perhaps by directing the attention of the committee to the fact that those are no longer the Cunningham claims, but the Guggenheim claims.

Mr. PEPPER. That is referred to in the offer of proof that Mr. Brandeis has heretofore made?

Mr. PINCHOT. Yes, sir.

Mr. JAMES. When Mr. Ballinger appeared before the House committee and gave the testimony, a part of which you have just read, was it in advocacy of the bill which is known as the law of May 28, 1908?

Mr. PINCHOT. It was in advocacy of the Kale bill, which was afterwards modified into the law of May 28.

Mr. JAMES. Which became the law?

Mr. PINCHOT. Which became the law, but not as it was then advocated by Mr. Ballinger.

Mr. OLMSTED. Right there may I interrupt you? Mr. Ballinger was then Commissioner of the Land Office?

Mr. PINCHOT. Mr. Ballinger was Commissioner of the Land Office at the time he appeared on March 3. He ceased to be the next day.

Mr. OLMSTED. And Mr. Garfield was Secretary of the Interior?

Mr. PINCHOT. And Mr. Garfield was Secretary of the Interior.

Mr. OLMSTED. They had both appeared before that committee, had they not?

Mr. PINCHOT. I am not sure whether they had at that time or not.

Mr. OLMSTED. I do not know whether they appeared together, but they did appear.

Mr. PINCHOT. But the bill, as I understand it, Mr. Olmsted, was subsequently modified.

Mr. OLMSTED. I merely wished to ask if there was any conflict between the Commissioner of the Land Office and the Secretary of the Interior at that time concerning that bill, or did they act in harmony?

Mr. PINCHOT. My understanding is that the things that were advocated by the two men were very distinct.

Mr. PEPPER. Mr. Chairman, if I may answer Mr. Olmsted's question, the documents show that the hearings before the Public Land Committee upon the Kale bill were hearings on March 3, 1908, Mr. Ballinger's testimony being given during those hearings. The hearing at which Mr. Garfield testified was May 8, 1908, some time after Mr. Ballinger had gone out of office, and had relation, not to the Kale bill, but to the substituted measure which afterwards became law under date of May 28, 1908.

Mr. OLMSTED. It had relation to the same general matter?

Mr. PEPPER. It all had relation to the Alaska legislation.

The CHAIRMAN. My recollection is that the law that passed was a Senate bill.

Mr. PEPPER. That is correct, sir.

The CHAIRMAN. And not a House bill.

Mr. PEPPER. Not at all, sir. I think it will appear as the evidence comes in that the Kale bill, which Mr. Ballinger was advocating on

March 3, was a bill introduced by Representative Cale, but in fact was drawn by Mr. Ballinger while he was Commissioner of the General Land Office; that that bill contained the things which Mr. Ballinger comments upon in his testimony will be seen by comparison with the subsequently adopted act of May 28, 1908, originating in the Senate, which is an entirely different measure.

The CHAIRMAN. But which bill was it that Secretary Garfield appeared before the House committee on?

Mr. PEPPER. The second and later act, the act of May 28, 1908, as it ultimately became.

The CHAIRMAN. Was that after the bill had passed the Senate?

Mr. PEPPER. I would not like to speak just from recollection. Perhaps I can tell from reference to the document.

The CHAIRMAN. I think you will find that the bill which Secretary Garfield appeared upon was not the bill that finally passed; it was a Senate bill.

Senator FLINT. As a matter of fact, the bill of May 28 was Mr. Garfield's bill, but it was drafted by Mr. Woodruff.

Mr. PEPPER. That is correct, sir.

Mr. OLMSTED. What I was trying to ascertain was whether, at the time Mr. Ballinger was subordinate to Secretary Garfield, there was at that time any disagreement or conflict between them concerning these Alaska coal matters.

Mr. PEPPER. If it would be consistent with the desire of the committee, I would like to postpone answering that question until I can answer it through Mr. Garfield, because I do expect to prove by him that he did not know until long afterwards of the testimony of Mr. Ballinger before the committee of March 3d. But that matter I do not like to aver, because it rests on the testimony of the witness.

Mr. OLMSTED. Very well.

Mr. PEPPER. Mr. Pinchot, will you read from the point that you had reached?

The CHAIRMAN. I think you will find, Mr. Pepper, if you will look it up, you will find that the bill Mr. Garfield appeared upon before the House committee was not the Senate bill that finally passed and became a law. That is my impression.

Mr. PEPPER. It is quite possible, Mr. Chairman, because several bills were introduced. The Cale bill was introduced, and I think Mr. Mondell introduced a bill, and Senator Heyburn introduced a bill in the Senate, and subsequently the act of May 28, 1908, took the place of all preceding measures, and was, when passed, an act adopted with the approval of the then Secretary of the Interior. It is quite possible that the testimony that Mr. Garfield gave was before the House committee dealing with one of the measures which ultimately gave place to the Senate bill that was enacted as a law on May 28, 1908.

Senator ROOT. Mr. Pepper, I see that we have already in the testimony a good deal of evidence on this subject. On page 91 of the list there is a report by Mr. Garfield to the chairman of the Committee on Public Lands of the House, dated April 20, 1908, reporting upon House bill No. 19421.

Mr. PEPPER. Yes, sir.

Senator ROOT. On page 114 of the list there is a report from Secretary Garfield to the Committee on Public Lands of the Senate, .

dated May 6, 1908, reporting upon Senate bill 6805, which was the bill which subsequently became a law as the act of May 28, 1908. And on page 100 of the list is the report of the hearing before the House Committee on Public Lands, on May 4, 1908, in which hearing Secretary Garfield appeared and gave testimony relating to the bill then pending before the House. So that the proceedings were going on substantially at the same time, or about the same time, in the House relating to House bill which you spoke of, which is, I suppose, the Cale bill; and in the Senate regarding the bill which became the act of May 28, 1908.

Mr. PEPPER. Senator Root, I should answer that in this way: The dates that you have referred to in May, the early part of May, 1908, show that what was then going forward was a series of hearings on a Senate measure, which ultimately became law, and the House measure introduced by Mr. Mondell. The measure respecting which Mr. Ballinger testified in the previous March was neither of these measures, but a measure introduced by Mr. Cale, but from the pen, if I am correctly informed, of the then Commissioner of the Land Office. In other words, the hearings were on distinct measures. And when the committee is ready to consider the matter in argument the exact relation of those measures to one another, I think, can be made clear.

Mr. OLMSTED. Will I interrupt you if I ask Mr. Pinchot a question at this point?

Mr. PEPPER. Not at all.

Mr. OLMSTED. You have just read from the statement made by Mr. Ballinger, as I understand it, before a committee with reference to the proposed legislation in 1908.

Mr. PINCHOT. Yes, sir.

Mr. OLMSTED. Now, I want to read from page 92 of this document that we call the list. By reference to page 91 you will find the report of Secretary Garfield on House bill 19421, and is dated April 20, 1908, and addressed to the chairman of the Committee on the Public Lands of the House of Representatives. On page 92 he says:

Section 9 of the bill practically confirms all disputed entries or locations made under the coal-land laws, if the price therefor, as of the date of such entry or location, has been paid or shall be paid.

I will skip the part of it that seems not necessary to read. Speaking of the laws he says:

Their impracticability has helped bring about the practice of attempting to evade them. The culpability of such evasion is admitted. Yet if, after the passage of this bill, those under charge of wrongful action should be willing to take their land with the very considerable penalty of assuming all the burdens and restrictions of the new law, it would seem proper to confirm their right to so much of the land as shall not exceed in area the maximum amount which might be acquired under this bill.

I therefore suggest as a substitute for section 9 of the bill the following:

"SEC. 9. That any persons, associations, or corporations, who have obtained prior to the passage of this act claim or title to any coal lands of the United States, by alleged unlawful means, shall, upon proof to the satisfaction of the Secretary of the Interior that the full coal-land price of such land, as classified by said Secretary under authority of law, has been paid to the United States, have their patents confirmed for not to exceed two thousand five hundred and sixty acres of such coal lands, if patents have issued, or if patents have not issued, shall receive patents for not to exceed said area."

Now, I ask you if there is any difference between the position assumed by Mr. Garfield there and the position assumed by Mr. Ballinger who was the Commissioner of the Land Office under Mr. Garfield?

Mr. PINCHOT. The difference, as I understand it, Mr. Olmsted, is the one I have already endeavored to explain—that under Mr. Ballinger's proposal a patent would have passed to the Cunningham claimants for \$10 an acre.

Mr. PEPPER. And for the whole tract?

Mr. PINCHOT. And for the whole tract. Under Mr. Garfield's proposal, patent would have passed to them, if they had decided, for the full coal-land value of the land, and for only 2,560 acres. I have been informed that there is in addition an antimonopoly clause.

Senator FLINT. That was the bill that passed the Senate that did not permit the claims to be patented?

Mr. PINCHOT. Yes, sir.

Mr. OLMSTED. And Congress went further than Mr. Garfield or Mr. Ballinger?

Mr. PINCHOT. No; Congress did exactly what Mr. Garfield recommended. Is that not so, Senator Flint?

Senator FLINT. The act of May 28 was drafted by Mr. Woodruff, the Assistant Attorney-General of the Interior Department, at my request, after consultation with the then Secretary of the Interior Garfield, and I reported it to the Committee after it had been sent in in the regular way.

The CHAIRMAN. Is that bill which has been handed to you, the Kale bill to which you refer?

Mr. PINCHOT. It is so labeled, Senator.

The CHAIRMAN. That is the bill on which the hearings were had to which you refer?

Mr. PINCHOT. That is my understanding.

Mr. PEPPER. And when you speak of hearings, you mean the hearings in which Mr. Ballinger testified on March 3?

Mr. PINCHOT. Yes, sir.

Mr. McCALL. And not the hearing in which Mr. Garfield testified before the House committee?

Mr. PINCHOT. No, sir.

Mr. McCALL. Have you verified that number?

Mr. PEPPER. That, sir, I think is a hearing held May 4, 1908, on House bill 19421.

Mr. OLMSTED. What is the number of the bill you have?

Mr. PINCHOT. The Kale bill is H. R. 18198.

Mr. OLMSTED. That is a different bill?

Mr. PEPPER. Yes, sir.

The CHAIRMAN. And the bill that Mr. Garfield appeared upon is House bill 19421. That is the Mondell bill, as they call it. The bill as finally passed was a Senate bill, and did not embrace either of these bills.

Mr. PEPPER. Now, Mr. Pinchot, will you resume your reading? You had reached the words "in entire accord with the opinion of the First Assistant Secretary."

Mr. PINCHOT (reading):

In the matter of my attitude toward withdrawals for so-called administrative sites, the facts are, that responsive to a request for such withdrawal of lands, outside of the Pike National Forest, in the State of Colorado, I called attention to the act of Congress providing "that no forest shall be created, nor any additions made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by act of Congress," and determined that "a withdrawal as suggested would be in effect an extension of the forest reservation * * * and, consequently, in the face of the legislative prohibition."

Mr. PEPPER. Is that the matter that you referred to on Saturday, when I asked you what in point of fact is the effect of the withdrawal from entry of land for administrative sites?

Mr. PINCHOT. That was the matter that was referred to in the testimony Saturday.

Mr. PEPPER. The question being whether or not the land so withdrawn does become a part of the forest.

Mr. PINCHOT. Of a national forest.

Mr. PEPPER. And was there such a withdrawal that involves an extensive forest area?

Mr. PINCHOT. Precisely.

Mr. PEPPER. And that is the matter which I think you said appeared to have been referred, some time about a year ago, to the Attorney-General?

Mr. PINCHOT. That was referred to the Attorney-General some time last May and has never, as I am informed, been ruled upon as yet.

Mr. PEPPER. Will you go on, Mr. Pinchot, with your reading?

Mr. PINCHOT, (reading):

Simultaneously, responsive to a request for withdrawal of an area 2 miles square (1,280 acres) within the Chelan Forest, Washington, attention was called to the legislative declaration that nothing in the act authorized the setting apart of forest reservations should "prohibit any person from * * * prospecting, locating, and developing the mineral resources" of the lands included therein, and stated that a withdrawal as requested would have the effect of suspending the operation of the mineral-land laws of the lands affected thereby, and was therefore unauthorized. It was further suggested that if the lands proposed to be withdrawn were nonmineral in character, the jurisdiction of the Department of Agriculture was already complete. These requests for withdrawals simply stated that the lands were desired for "administrative sites," giving no declaration of necessity therefor. It was known to me, and admitted by forest officers, that some of the former withdrawals for administrative sites had been made for the sole purpose of controlling water-power sites and without any intention of using them for administrative purposes, and Secretary Wilson announced at a Cabinet meeting that further withdrawals for such purposes would not be requested. My action in reference to the two requests for withdrawals of administrative sites just referred to was based upon opinions transmitted to me by Assistant Attorney-General Lawler of the Interior Department; upon question being raised as to the soundness of said opinion the entire matter was referred to the Attorney-General, who will no doubt in due time give us the benefit of his views with reference thereto.

Mr. PEPPER. What is the fact as to whether or not the requests for withdrawals which were made the subject of refusal and reference were withdrawals made to include water-power sites?

Mr. PINCHOT. Not one of them was. They were ranger sites—administrative withdrawals pure and simple.

Mr. PEPPER. Will you go on and read now, Mr. Pinchot?

Mr. PINCHOT (reading):

With reference to my letter to the Secretary of Agriculture that requests for withdrawals be accompanied by a showing of the necessity for the devotion of the lands to public use being a reflection upon the Secretary of Agriculture, it need only be stated that the relations between that official and myself are now, as they have always been, of the most cordial nature. I am satisfied that if he entertained any feeling that my communication had subjected him to an "indignity" he would have very properly called the same to my attention, and would have received a very prompt and complete disavowal of any such intention; that he has not done so is to me a complete demonstration that any such idea was as foreign to his own conception as it was to mine. As to the propriety of requiring such a showing, I believed that the same would be beneficial to both departments, there having been withdrawn under the mere designation "administrative sites" over 600,000 acres of the public lands, much of which is outside of forest reserves, and within those States where extension of reserves is

prohibited by law. This has aroused serious criticism and charges to the effect that the practice of making such withdrawals was being indulged in for the purpose of circumventing the reserve or disposition. Manifestly, if a record were made showing the necessity for the use of the land specially withdrawn, an effective answer would plainly appear to such criticism and there would be less doubt as to the legal justification for the withdrawals.

In the matter of the withdrawals for water-power purposes made shortly prior to the 4th of March last and the restoration of the lands covered thereby shortly after that date, the facts involved have been fully discussed above responsive to a communication from Mr. Garment, and also in my answer to you of the 6th of this month. That the policy of restoration has not been and was not reversed is self-evident and has been amply demonstrated.

Mr. Pinchot's statement that the so-called "Indian-Forest cooperative agreement" has never been passed upon by the comptroller is erroneous. On September 3, 1908, responsive to inquiry from the Interior Department, the comptroller wrote the following opinion:

Mr. PINCHOT. That is the opinion which is already in evidence. Shall I read it?

The CHAIRMAN. That is already in.

Mr. PEPPER. That is already in evidence, and unless the committee desires it may be passed over.

Mr. PINCHOT (continuing reading):

"I have the honor to acknowledge the receipt of your letter of August 26, 1908, in which you request my decision of a question therein presented, as follows:

"Under a cooperative agreement existing between the Bureau of Forestry and the Office of Indian Affairs, affecting the cutting of timber and other matters pertaining to forestry on various Indian reservations, the expenses incurred in the prosecution of such work by the said bureau are paid by the Indian Office from funds belonging to the Indian tribes for whose benefit the work is performed.

"It is now deemed necessary by the Forester and the Commissioner of Indian Affairs to detail a clerk from the Forestry Bureau for duty in the Indian Office, in order that the work there may have the supervision of one who is thoroughly familiar with its technical details, his salary to be paid by a disbursing officer of this department from funds belonging to the Indians, and apportioned as far as possible among the different tribes in accordance with the amount of work performed for each.

"Before proceeding as indicated, I should like to have from you a decision as to whether or not there is any legal obstacle in the way of such an arrangement."

"The detail of an employee from one department to another, with or without an agreement between the heads of the departments concerned, to perform duties which are not connected with the department from which detailed and the payment of his salary from appropriations for, or moneys under the control of, the department to which detailed is unauthorized (14 Comp. Dec., 294), unless express authority by statute is granted therefor, and I am not aware of any statute that either expressly or impliedly gives general authority to make such details between the Agricultural and Interior departments.

"For the above reason your question is answered that there is legal objection to the proposed arrangement of which you speak."

The agreement referred to therein (which is the same agreement referred to by Forester Pinchot) provides, among other things, that "the Forest Service will undertake * * * the protection of all forests on Indian reservations * * * the salaries and expenses of all men actually employed to carry out this agreement shall be borne by the Indian Office * * * all men so employed * * * shall constitute a part of the force of the Forest Service responsible directly and only thereto * * * work in the woods * * * shall be planned, initiated, and conducted wholly by officers of the Forest Service."

The agreement therefore manifestly provided for the detail of employees of the Department of Agriculture to perform duties of the Indian Office not connected with the Forestry Bureau and the payment of the salaries and expenses of such employees out of moneys of the Interior Department; a practice to which the Comptroller said there was legal objection and which he held to be unauthorized.

In the letter of Assistant Secretary Pierce to the Secretary of Agriculture, he said:

"This department, however, should be enabled to avail itself of the knowledge and skill of the officers of the Bureau of Forestry. To this end it is suggested that an arrangement be made with the Department of Agriculture whereby this department

may request that it be loaned from time to time as the exigencies of the service may require and the business of the Forest Service permit, forestry experts to advise and aid the employees of the Indian Office in the proper care and disposition of timber upon Indian reservations, the expenses so incurred by the Forest Service to be reimbursed in the usual manner."

As to both these matters—the cooperative agreement and the withdrawal of administrative sites—I sought and received opinion as to the legal questions involved from the officer of the Government employed for that purpose. That official gave to them careful and studious consideration and announced his conclusions as the result thereof. While laying no claim to infallibility, I am convinced of the correctness of these views, and would have been recalcitrant to my trust had I announced any other determination than the one resulting from honest conviction.

Mr. PEPPER. Mr. Pinchot, is it a fact that when the President's letter of September 13 came down in which you referred to Mr. Balinger's contention respecting this comptroller's decision, that you wrote to the then Indian Commissioner requesting information which the decision referred to?

Mr. PINCHOT. I did. I wrote to him about the 1st of October.

Mr. PEPPER. This purports to be a copy of a letter written by you to Commissioner Valentine under date of October 7. Is that the letter referred to?

Mr. PINCHOT. That is the letter referred to.

Mr. PEPPER. Is that the letter you referred to on Saturday when this matter came up?

Mr. PINCHOT. It is the same letter.

The CHAIRMAN. If there is no objection, will you be good enough to read that letter, which you may then offer in evidence?

(Mr. Pinchot read the letter, as follows.)

OCTOBER 7, 1909.

Hon. R. G. VALENTINE,
*Commissioner of Indian Affairs,
Department of the Interior.*

DEAR MR. VALENTINE: The letter dated September 13, from the President to the Secretary of the Interior, since made public, contains the following statement with reference to the termination of the cooperative agreement between the Department of the Interior and the Department of Agriculture, for handling forests on Indian reservations:

"Your declination to carry out the contract was made necessary by a ruling of the comptroller, whose ruling is final and without appeal even to the President, that such an arrangement is a delegation of responsibility and authority for the expenditure of money which the appropriation by Congress for the Indian Bureau did not authorize. While I agree that it would avoid wasteful duplication in organization to authorize the Forestry Bureau of the Agricultural Department to take care of and develop the forests on Indian reservations, because the Forestry Bureau is much better able with its trained men to do the work with efficiency and economy, it is plainly necessary, in view of the comptroller's ruling, to secure congressional sanction for such cooperation."

Mr. Price tells me that in the conferences between yourself, Acting Secretary Pierce, and him regarding the cooperative agreement, no reference was made to a decision of the comptroller as the basis for its termination. The letters of the Acting Secretary of the Interior, transmitted through your office, terminating the cooperative agreement do not mention such a decision. Under these circumstances, and since the Auditor or the Department of the Interior approved accounts under the cooperative agreement since cooperation began, I would be very glad if you would inform me to what decision of the comptroller the letter refers.

Very sincerely, yours,

GIFFORD PINCHOT, *Forester.*

Mr. PINCHOT. The reply is dated October 8 [reading]:

OFFICE COMMISSIONER OF INDIAN AFFAIRS,
Washington, October 8, 1905.

Hon. GIFFORD PINCHOT,
Forester, United States Forest Service.

MY DEAR MR. PINCHOT: I have your letter of October 7, asking me about the decision of the Comptroller to which the President refers in his letter of September 13 to the Secretary of the Interior. After the President's letter appeared I made inquiries as to what was the decision referred to and was told that it was a written opinion of the Comptroller dated September 3, 1905, a copy of which I inclose. Of course, I knew of this decision at the time it was made, but neither then nor at any time after until I made the inquiries above mentioned, was I informed that this decision bore in any way on the general legality of the cooperative agreement.

Sincerely, yours,

R. G. VALENTINE, Commissioner.

Mr. PEPPER. That should be September 3, should it not, actually?

Mr. PINCHOT. No; a written opinion of the Comptroller dated September 3—that is right, September 3.

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER,
Washington, September 3, 1905.

The SECRETARY OF THE INTERIOR.

SIR: I have the honor to acknowledge the receipt of your letter of August 26, 1905, in which you request my decision of a question therein presented, as follows:

"Under a cooperative agreement existing between the Bureau of Forestry and the Office of Indian Affairs, affecting the cutting of timber and other matters pertaining to forestry on various Indian reservations, the expenses incurred in the prosecution of such work by the said bureau are paid by the Indian Office from funds belonging to the Indian tribes for whose benefit the work is performed.

"It is now deemed necessary by the forester and the Commissioner of Indian Affairs to detail a clerk from the Forestry Bureau for duty in the Indian Office in order that the work there may have the supervision of one who is thoroughly familiar with its technical details, his salary to be paid by a disbursing officer of this department from funds belonging to the Indians and apportioned as far as possible among the different tribes in accordance with the amount of work performed for each.

"Before proceeding as indicated, I should like to have from you a decision as to whether or not there is any legal obstacle in the way of such an arrangement."

The detail of an employee from one department to another, with or without an agreement between the heads of the departments concerned, to perform duties which are not connected with the department from which detailed and the payment of salary from appropriations for or moneys under the control of the department to which detailed is unauthorized (14 Comp. Dec., 294), unless express authority by statute is granted therefor, and I am not aware of any statute that either expressly or implicitly gives general authority to make such details between the Agricultural and Interior departments.

For the above reason your question is answered that there is legal objection to the proposed arrangement of which you speak.

Respectfully,

R. J. TRACEWELL,
Comptroller.

Mr. PEPPER. Will you just complete the reading of the letter as rapidly as possible, beginning with the words "The statement that the Reclamation Service?"

Mr. PINCHOT (reading):

The statement that the Reclamation Service had lost the support of the Secretary without foundation, as is also the further statement that it is in danger of disintegration through any act of commission or omission on my part. The law lays upon the head of the Interior Department great responsibilities in its administration in reclamation matters. To say that efforts to become familiar with the operations of the service and to intelligently carry out the duties incident to that administration will accomplish disintegration, is entirely unwarranted and involves the assumption that the conduct of the reclamation officers can not stand scrutiny or supervision. As none of such

officers have ever intimated any such idea to me, and it is unfair to assume that they are so regardless of their obligations to their responsible head as to secretly indulge in criticism to an officer who has no legal or other right to interfere in their affairs, it is reasonable to believe that the criticism made is based on idle gossip, to which no unprejudiced person, devoid of anxiety to condemn without a hearing, would have paid any heed.

Mr. PEPPER. May I ask whether that is a matter which lies within your personal knowledge or within the knowledge of Messrs. Davis and Newell?

Mr. PINCHOT. I expect Davis and Newell will testify on that point [reading]:

Referring further to the Cunningham claims, I think it not improper to call attention to the fact that the forest reserve was extended over some of them long after the entries were made, and that in order to justify such an extension an expert was recently sent to Alaska by the name of Wingate, who reported that the lands were not coal lands. Recent reports from C. A. Fisher, a representative of the Geological Survey, and the report from Mr. Kennedy, sent to Alaska for that purpose by Mr. Glavis, show unquestionably that the lands are highly valuable for their coal deposits. Copies of these reports can be furnished you if desired.

I herewith attach copy of a report handed me by Mr. C. A. Fisher, of the Geological Survey, respecting his recent trip to Alaska regarding the Cunningham coal claims, marked "Exhibit C."

I also inclose a copy of a letter written by me April 8, 1908, to Hon. James R. Garfield, and his answer thereto of April 16, 1908, to further disprove the statement that I have been inimical to the protection of the coal lands in Alaska from monopolistic control. (Exhibit D.)

Mr. PEPPER. Then, accompanying that, as I understand, came as an exhibit Mr. Fisher's report, which was Exhibit C, and the Garfield correspondence that you are not personally cognizant of, which was Exhibit D.

Mr. PINCHOT. Precisely.

Mr. PEPPER. Then will you read the final paragraph of the letter?

Mr. PINCHOT [reading]:

I also append hereto for your perusal copy of a letter recently written by my former partner, Hon. J. T. Ronald, now judge of the superior court of King County, Wash., to Dr. Lyman Abbott. (Exhibit E.)

Very respectfully,

R. A. BALLINGER, *Secretary*.

The PRESIDENT.

Mr. PEPPER. Will you now take that Exhibit E if you have it before you?

The CHAIRMAN. That letter is admitted.

Mr. PEPPER. The chairman's reference is to the letter of the Secretary, the reading of which was just concluded.

The CHAIRMAN. I made that statement for the benefit of the stenographer.

Senator FLINT. Are you again going to refer to Mr. Wingate's report?

Mr. PEPPER. Yes; the exhibit of Mr. Fisher is the one which criticises the Wingate report and confirms Kennedy's view in respect thereto.

Senator FLINT. Are you going to advert again to that?

Mr. PEPPER. I did not intend to, except to have it spread on the record at this point.

Senator FLINT. How long have you known Mr. Wingate?

Mr. PINCHOT. I never saw him.

Senator FLINT. How did your department happen to send him up there to examine the coal fields?

Mr. PINCHOT. Mr. Glavis recommended him to Mr. Allen and I understand.

The CHAIRMAN. Who detailed him to go up there?

Mr. PINCHOT. Mr. Allen.

The CHAIRMAN. Of your bureau?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. Who is Mr. Allen?

Mr. PINCHOT. He was at that time district forester of district number 6, with headquarters at Portland.

The CHAIRMAN. He was the one that Mr. Glavis had applied to for help in this matter?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. And this was the help he got?

Mr. PINCHOT. This was not all of it, Senator [reading]: "Superior court for the State of Washington"——

The CHAIRMAN. Whose letter is that?

Mr. PINCHOT. I do not know that the committee understands, but this letter is signed by J. T. Ronald.

Mr. PEPPER. Explain what it is, in answer to the chairman's question, as to how it came into your hands and what reference it has to the letter you have just read.

Mr. PINCHOT. This is Exhibit E, referred to in the copy of Mr. Ballinger's letter sent to me by the President and covered by the last paragraph, which I will read again [reading]:

I also append hereto for your perusal copy of a letter recently written by my former partner, Hon. J. T. Ronald, now judge of the superior court of King County, Wash. to Dr. Lyman Abbott. (Exhibit E.)

Mr. PEPPER. That is to say, a letter signed by Mr. Ballinger to the President for the President's perusal.

Mr. PINCHOT. Yes, sir; sent by the President to me as one of the exhibits.

Mr. PINCHOT (reading):

MY DEAR SIR: From a creditable source I have information that one of the magazines published in New York has already set up in form a report to the effect that Secretary of the Interior Ballinger was formerly attorney for Clark Davis and associates, claimants of coal interests in Alaska, which is to be published by the magazine in question presumably for the purpose of impeaching his qualifications to deal as the head of the department with such questions.

Of late so much has been said in the public prints concerning Judge Ballinger's legal connections with interests in Alaska coal-land locations that, lest such may be so construed as to discredit his standing in dealing with such matters, I, though of an opposite political faith, yet, as one of his former law partners, we having spent twenty years of our lives together in the most intimate and confidential relations, only warranted by his elevation to the Cabinet and my promotion to the bench, and feeling myself qualified, by reason of my knowledge of the facts, ask permission through you to place before the public a full and true history of Judge Ballinger's connection with such matters.

Touching his relation to the Cunningham claims, the President, himself a great jurist and weigher of testimony, has pronounced judgment, and, as you say in the October number of the Outlook, "His judgment * * * will be accepted as final and satisfactory by the country," I shall therefore make no reference thereto further than to suggest that your conclusion in the article referred to, characterizing as "bad taste" his acceptance of a fee from the Cunningham claimants after their case had been investigated by his own office while Commissioner of the General Land Office, and which at the time of such fee "still rested under the charge of being fraudulent," seems to me as not resting for support upon correct premises. I take it the inference thus expressed is based upon an assumed accuracy of certain of the allegations contained in your general statement or summary of the charges set forth in a

preceding part of the article as having been made against the Secretary—one of which allegations is to the effect that Special Agent Jones, while Judge Ballinger was commissioner, "submitted a report in which it was intimated that the entries (meaning Cunningham entries) were fraudulent;" and another of which allegations is to the effect that Judge Ballinger's order while commissioner "that these claims be 'clear listed' or patent was suspended as the result of a protest from Mr. Glavis;" and another of which allegations is to the effect that Judge Ballinger, after his resignation as commissioner, with full knowledge of the alleged fraudulent character of these claims, urged before the House Committee on Public Lands "legislation which would have benefited the Cunningham claimants."

There is attached to this page a slip which is as follows, it is inscribed, in connection with this sheet of Judge Ronald's letter (in blue pencil); the last part I have read.

In connection with this sheet, No. 2, of Judge Ronald's letter in blue pencil, Judge Ronald writes me, under date of October 25, as follows:

You will notice that my comments concerning certain allegations with reference to the Cunningham claims are based entirely upon certain marginal notes which I found in your handwriting in the edition of the Outlook which Mrs. Ballinger furnished me. For instance, in the Outlook's statement, that Special Agent Jones had made a report concerning these claims, you have put in the margin "not these claims," and again, where the Outlook states that they were protested by Glavis, you have commented with the word "No;" and again, where the Outlook states that you urged before the House committee certain legislation; you have commented "No."

Mr. PINCHOT. The part of Judge Ronald's letter in blue-pencil brackets begins "I take it this inference thus expressed," etc., down to "with full knowledge of the alleged fraudulent character of these claims, urged before the House Committee on Public Lands 'legislation which would have benefited the Cunningham claimants.'" Then proceeding from the part bracketed in blue pencil [reading]:

Assuming, as I have before written, the truth of the three allegations above stated, your inference of "bad taste" would, I concede, be logical. If all of these premises, however, are untrue, then, I submit, his employment can not be criticized. Knowing the man as I know him, knowing his high ideals as a practitioner and his high regard for the proprieties and ethics of his profession, I, without having seen the record, have no hesitancy in asserting that the report of Special Agent Jones was not with reference to the Cunningham claims; that no order of Judge Ballinger's while commissioner clear listing the Cunningham claims was held up as a result of a protest from Mr. Glavis; and that Judge Ballinger at no time urged before the House Committee on Public Lands legislation in the interest of any claimant which he had any reason to suspect as being fraudulent. Is it reasonable that a man of his exalted ideas would for the paltry fee of \$250 place himself in such a position? If the records show such to be the case, is it possible that the inference of bad taste naturally deducible therefrom could have escaped the great legal mind of the President in his examination?

Touching, however, the report previously referred to, concerning Judge Ballinger's legal connection with the Clark Davis coal-land claims, I suppose this designation refers to a corporation known here as the Alaska Petroleum and Coal Company, of which Mr. T. S. Lippy, of this city, is president, and Clark Davis, general manager. That company has been represented by regular counsel for a number of years past, and, as far as I know, since its organization. At no time did this company or any of its officers in any manner discuss its business or consult with any member of our firm. Not one of us ever knew a single fact concerning its business or of the scene of its operations further than the general understanding that it was developing coal and oil properties somewhere in Alaska. I can imagine but one circumstance from which even a suspicion of Judge Ballinger's connection with this corporation could arise. In May, 1906, one John W. Hartline, acting for himself and some six or seven others, including his relatives, locators of coal mines near Katalla, Alaska, entered into a written contract with a young man, H. R. Harrison by name, who was acting for himself and as agent for a like number of proposed purchasers, whereby the Hartline people agreed to sell to Harriman and his friends their holdings, upon terms therein mentioned. Certain questions arose between Hartline and Harriman respecting the

construction of that contract. Harriman claimed the right to complete the purchase, while Hartline denied such right, basing his denial upon Harriman's alleged default. The two agreed to submit the construction to legal counsel, and, accordingly, arranged that Harriman should procure a legal opinion construing the contract and forward same to Hartline, who had gone East. In December, 1906, Harriman was brought to our office by a friend of his, who was an old friend and client of our firm, and was by such friend introduced to the writer. My opinion in writing construing the contract was requested by Harriman, furnished by me, and paid for. No question of the Government's rights or of the relations of any of the parties to the Government was involved. It was a question solely of the construction of the contract as between the buyers and sellers. But Hartline, it seems, was not perfectly satisfied with my construction. In the meantime, Judge Ballinger having resigned returned to Seattle and resumed his partnership relations. Some time afterwards, Hartline being in Seattle, he and Harriman called at our office and again submitted the matter to Judge Ballinger, who verbally confirmed the construction previously given by me. No further charge was made, and, so far as I know, the parties accepted the construction and completed the sale. I learned only on the 22d instant from one of our old firm that Harriman is at present secretary of the Alaska Petroleum and Coal Company. I don't know how long he has been such secretary, and if Judge Ballinger ever knew or knows now of any connection of Harriman's with that corporation, I am unaware of it.

Another of Judge Ballinger's relationships grows out of the following: Some time during the summer of 1908 he was retained by an eastern client to attend to the matter of a proposed purchase by the client of an interest in what he called the "Kataba Anthracite Coal Fields Railway Company," a name which none of us had ever heard before. Ex-Mayor White, of this city, was the promoter of the company. An inspection of the corporate records disclosed them to be in a muddled condition; in fact it was not a properly or regularly organized corporation at all. This situation resulted in Judge Ballinger being asked to construe the act of Congress approved May 28, 1908, and to prepare and file amended articles of incorporation to enable the company to come under that act. The matter of the location of claims or acquiring patent to the same was never in any manner considered, his whole employment being confined to the matter of the preparation of proper papers and the purchase for his client of an interest in the corporation.

Judge Ballinger's next connection was the preparing, during the summer of 1908, of articles of incorporation and by-laws for two companies, namely, "McKenzie Anthracite Coal Company" and "Carbon Mountain Anthracite Coal Company." Nothing was discussed or done with reference to titles or to procuring patents, his employment being limited to the preparation of articles and by-laws.

His only remaining connection is this: One W. G. Whorf filed with the proper officials at Seward his application for coal-land patent, which was duly forwarded by mail to the registrar and receiver at Juneau. The papers having been lost in transit, certified copies were presented by Whorf and refused by the registrar and receiver. On behalf of Whorf, Judge Ballinger laid the facts before Commissioner Dennett, who, on considering all the affidavits, instructed the registrar and receiver to receive the same for filing. Nothing further was ever done by Ballinger.

The above is submitted as a complete embodiment of Judge Ballinger's every act in relation to coal lands in Alaska.

Before closing this article permit me to say that, knowing him as I do, I am satisfied that to undermine his influence or to depreciate his standing by a misunderstanding of his relations or by a misconstruction of his attitude will tend to injure rather than to promote the principles embodied in the conservation of national resources. He is a man of thought and deeds, not of words. His every thought and impulse is in harmony with that sympathy existing among the common people. He came to this State twenty years ago a young lawyer, without money, without friends, without backing, and without influence. As a result of merit he was elected superior judge, which he held for four years. During this period he wrote Ballinger on Community Property, which is recognized by jurists as the best authority extant on this subject which constitutes the system in a number of the States of our Union. He was later employed to codify the statutes of our State, and Ballinger's Annotated Codes and Statutes is the official code of this State. Declining a flattering offer to write a work on federal procedure, he, with Hon. Alfred Battle and myself, formed our copartnership more than twelve years ago. While enjoying a satisfactory practice, yet we were never the regular counsel for any public-service corporations. The reports will show many cases successfully waged against such, and it was after almost four years of strenuous litigation, followed by two hearings in the Supreme Court of the United States, that our firm procured from that great tribunal a construction of the railroad grants which conserved and confirmed to the people millions of dollars in value of

mineral resources theretofore claimed by the numerous beneficiaries of railroad grants. (See case of Soderburg v. N. P. Ry., 99 Fed. Rep., p. 506; 104 Fed. Rep., p. 425; U. S. Sup. Ct. Repts., vol. 198, p. 526.)

Judge Ballinger is a well-balanced, logical thinker, rather than a verbose talker, so that to know and understand him one must be intimately associated with him. While Commissioner of the General Land Office he thought out and recommended the system concerning the coal resources of Alaska which was subsequently enacted by Congress into law. (See acts ———.) In harmony with his solicitude concerning the conservation of national resources he prepared, without compensation, the articles of incorporation of the Washington Conservation Association. He is a man who brings to any subject committed to him the most careful and painstaking thought, and in the management of any interests or in the performance of any duty intrusted to him habitually masters every detail thereof. He is now while I write this somewhere in the arid regions of Arizona or New Mexico applying his usual industry and tireless energy toward the study and understanding of the schemes for reclaiming and converting the desert regions into an empire of contented citizens, and, as an early convert to and an earnest believer in the principles of conservation of national resources, I venture the opinion that if permitted, unhampered, he will, in his own quiet way, so build, so execute that the results of his untiring zeal, his unflagging industry, his unswerving devotion in behalf of a cause uppermost among the subjects of his deepest solicitude, when measured by the highest practical benefits possible from systems founded in wisdom and carried out with judgment, will not only justify the confidence of the President in appointing him, but will convert the tones of present criticism into plaudits of future commendation.

Respectfully, yours,

J. T. RONALD.

Mr. PEPPER. In your opening statement to the committee referring to your letter of November 4 to the President, you use this language:

I shall show you that this letter was submitted by the President to Mr. Ballinger, and that in reply he laid before the President a statement concerning the Cunningham coal cases, which statement is shown by indisputed documentary evidence to be absolutely false in three essential particulars.

Will you be kind enough to tell me what relation, if any, there is between that statement and the letter you have just read?

Mr. PINCHOT. This is the letter or statement to which I referred which was submitted by Mr. Ballinger to the President, as indicated in the letter of November 15 which I read a few moments ago, and it does contain three statements which are absolutely false, as shown by undisputed documentary evidence.

Mr. PEPPER. What are the three? Will you read again the statement in the letter?

Mr. PINCHOT. The best summary of the three is found at the bottom of page 2 of Judge Ronald's letter, where he says:

I, without having seen the record, have no hesitancy in asserting that the report of Special Agent Jones was not with reference to the Cunningham claims; that no order of Judge Ballinger's while commissioner clearlisting the Cunningham claims was held up as a result of a protest from Mr. Glavis; and that Judge Ballinger at no time urged before the House Committee on Public Lands legislation in the interest of any claimant which he had any reason to suspect as being fraudulent.

Mr. PEPPER. What is the fact in regard to each of those matters?

Mr. PINCHOT. The fact in regard to each of those matters is the direct opposite of what is here stated.

Mr. PEPPER. But is it with respect to the Jones report?

Mr. PINCHOT. The Jones report is already in evidence, two of them, and both contain references to the Cunningham claims.

Mr. PEPPER. What is the fact in regard to the revocation of the clearlisting order in January, 1908?

Mr. PINCHOT. There is abundant written evidence both from Judge Ballinger and myself and others that that order was revoked directly as the result of Mr. Glavis's protest.

Mr. PEPPER. Are you able to refer to page 67 of Senate Document 248 as substantiating your statement about Mr. Ballinger's admissions on this point?

Mr. PINCHOT. It is at the top of page 68.

Mr. PEPPER. Thank you.

Mr. PINCHOT. I must call your attention to the bottom of page 67 and the top of page 68. This is in Mr. Ballinger's report to the President. He says:

In the meantime, Agent Glavis was communicated with by the office as to these claims, as he was supposed to have some knowledge of their condition, and a wire was received from Glavis in Portland as follows:

PORTLAND, OREG., 22.

TO COMMISSIONER GENERAL LAND OFFICE,
Washington, D. C.

Coal entries mentioned in your letter January 7 should not be clear listed; letter follows.

GLAVIS, *Chf.*

Mr. Ballinger goes on:

I thereupon immediately called upon Secretary Garfield and advised him of Glavis's communication, as Governor Moore had, as I understood, previously conferred with Secretary Garfield respecting this matter. I suggested to Mr. Garfield the advisability of holding up the patents, in which he concurred.

Thereupon I directed Mr. Heltman, Chief of the Mineral Division of the General Land Office, to recall these entries (he having theretofore transmitted them to the Patent Division to have the patents issued), and directed him to hold them until further orders and awaiting full investigation.

Mr. PEPPER. Does it appear on page 67 who it was who had given the original clear listing order?

Mr. PINCHOT. Just above what I read this clause is found:

Special Agent Love's favorable report was at the time (that is, at the time of the clear listing) brought to my attention, and basing my action thereon, this group of claims was clear listed for patenting.

Mr. PEPPER. As to the circumstances respecting the giving of the Jones report and the relation, if any, of Mr. Ballinger to those reports, do you refer to Mr. Jones's testimony heretofore given?

Mr. PINCHOT. I do. It is not necessary to go back over that.

Mr. PEPPER. With regard to the last point named—the advocacy of legislation by Mr. Ballinger—do you refer to the testimony which has heretofore been produced as having been given March 3, 1908?

Mr. PINCHOT. That matter, I think, has been sufficiently covered already this morning.

Mr. PEPPER. Having in mind those three points, will you read once more the statement in the letter from the letter itself? I want to have the thing specific.

Mr. PINCHOT. I will read the part marked in blue pencil.

Mr. PEPPER. Yes.

Mr. PINCHOT. And referred to in the slip attached. Judge Ronald says:

I take it this inference thus expressed is based upon an assumed accuracy of certain of the allegations contained in your general statement or summary of the charges set forth in a preceding part of the article as having been made against the Secretary—one of which allegations is to the effect that Special Agent Jones, while Judge Ballinger was commissioner, "submitted a report in which it was intimated that the entries (meaning Cunningham entries) were fraudulent;" and another of which allegations is to the effect that Judge Ballinger's order while commissioner "that these claims be 'clear listed' for patent was suspended as the result of a protest from Mr. Glavis;" and another of which allegations is to the effect that Judge Ballinger after his resign-

nation as commissioner, with full knowledge of the alleged fraudulent character of these claims, urged before the House Committee on Public Lands "legislation which would have benefited the Cunningham claimants."

Mr. GRAHAM. Why do you accuse Mr. Ballinger of misstatements which appear in a letter written by Judge Ronald?

Mr. PINCHOT. Because Judge Ballinger annotated the letter, and transmitted it when so annotated to the President as a part of his defense.

Mr. GRAHAM. You want us to infer that he vouched for the truth of the facts stated in it?

Mr. PINCHOT. I can reach no other conclusion.

Mr. PEPPER. What was the concluding paragraph of Judge Ballinger's letter to the President as far as it refers to the Ronald letter? Will you read it once more?

Mr. PINCHOT. He says, and this is in his letter to the President:

I also append hereto for your perusal copy of a letter recently written by my former partner, Hon. J. T. Ronald, now judge of the superior court of King County, to Dr. Lyman Abbott. (Exhibit E.)

The CHAIRMAN. This letter which you refer to, was that before or after Mr. Ballinger had made this report to the President?

Mr. PINCHOT. This is dated November 15.

The CHAIRMAN. When was this report made?

Mr. PINCHOT. This report I think is September 4, but I am not quite sure; September 4, yes.

The CHAIRMAN. It appears, then, before that letter was written that you quoted from, that Mr. Ballinger himself had made a report to the President, stating the facts as you claim them to be.

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. Is not that true, Mr. Pinchot?

Mr. PINCHOT. That is true.

The CHAIRMAN. So there would be no occasion for his vouching for that after he had made a contrary report to the President himself before that?

Mr. PINCHOT. I am not able to explain the process of his mind where he reached the point of vouching for it, but that he did vouch for it there is no doubt whatever.

Senator FLINT. He vouched for it by inclosing it.

Mr. PINCHOT. By transmitting it to the President as part of his defense.

The CHAIRMAN. He had already made, as you contend, a different report?

Mr. PINCHOT. Yes, sir; he had.

Mr. JAMES. I understand that letter was written from some magazine article, in Judge Ballinger's handwriting. He had annotated some statements with reference to certain allegations of Mr. Jones's having reported against the land.

Mr. PINCHOT. May I read what is on this slip in reply?

Mr. JAMES. Yes.

Mr. PINCHOT (reading):

In connection with this sheet, No. 2, of Judge Ronald's letter in blue pencil, Judge Ronald writes me, under date of October 25, as follows:

"You will notice that my comments concerning certain allegations with reference to the Cunningham claims are based entirely upon certain marginal notes which I found in your handwriting in the edition of the Outlook which Mrs. Ballinger furnished me. For instance, in the Outlook's statement that Special Agent Jones

had made a report concerning these claims, you have put in the margin 'Not these claims;' and, again, where the Outlook states that they were protested by Glavis, you have commented with the word 'No;' and, again, where the Outlook states that you urged before the House committee certain legislation, you have commented 'No.'"

Mr. GRAHAM. Was that addressed to Judge Ballinger that you have just read?

Mr. PINCHOT. There is nothing to indicate that is attached by Mr. Ballinger; there is no signature to indicate it, I mean. It is apparently attached, by internal evidence, by Judge Ballinger to Judge Ronald's letter and forwarded to the President.

Mr. PEPPER. Then the President causes a copy to be made of the letter from Mr. Ballinger, including Mr. Ronald's letter and the rider which Mr. Ballinger attached to the Ronald letter, and transmits that to you as part of Mr. Ballinger's answer to your letter of November 4?

Mr. PINCHOT. This is the original of Exhibit E transmitted by the President to me.

Senator FLETCHER. One point there is this: How could the President be deceived and base his action upon that deception when the misrepresentation mentioned in that letter did not reach him until November and he acted in September?

Mr. PINCHOT. I do not quite get the point.

Senator FLETCHER. The misrepresentation in the letter.

Mr. PINCHOT. In this letter?

Senator FLETCHER. That letter seems to have been written in November of 1909.

Mr. PINCHOT. Yes.

Senator FLETCHER. The President had acted in September of 1909.

Mr. PINCHOT. Those were two separate things. This was in reply to my letter of November 4, in which I laid certain facts before the President, and did not refer to the letter of September 4 here, of which I had at that time no knowledge.

Mr. PEPPER. With reference to the question just asked, are you able to state from recollection whether in the President's letter of September 13, dismissing the Glavis charges, the President does in fact refer to the clear-listing order?

Mr. PINCHOT. So far as I can recall, there was no reference whatever in that letter to the clear listing.

Mr. PEPPER. Either to the fact that Judge Ballinger had signed the clear-listing order or to the fact that there was a subsequent revocation of it?

Mr. PINCHOT. None whatever.

Mr. PEPPER. So that so far as the evidence goes of anything that had made an impression upon the President is concerned, what relation has this document to the first of such evidence?

Mr. PINCHOT. This is apparently the first documentary evidence, I think, indicating that the President was informed about the clear-listing matter except as it is mentioned in the document which I had not knowledge of at the time I got this.

The CHAIRMAN. Let me call your attention to page 747 of this document, Senate document, in the report of the Attorney-General to the President.

Mr. PINCHOT. What page is that, Senator?

The CHAIRMAN. Seven hundred and forty-seven, near the bottom of the page. You can see that this whole matter was before the Attorney-General and reported by him to the President.

Mr. PINCHOT. Yes.

The CHAIRMAN. Exactly. So that it appears the Attorney-General had this whole matter before him, including Mr. Ballinger's reply from which you quoted. How could there be any deception then?

Mr. PINCHOT. As I have said before, I can not undertake to explain why Mr. Ballinger took the action he did. I can only testify he did take that action.

Mr. PEPPER. And that, in point of fact, as you read, the document is the only reference that the President makes to this whole subject of clear listing. Is there any reference in his letter of September 13 to that matter whatsoever?

Mr. PINCHOT. None that I can recall.

Mr. PEPPER. Or to either of the other matters that are referred to in the Ronald letter?

Mr. PINCHOT. None that I can recall.

Mr. PEPPER. So that when the President sent to you the Ronald letter, received from Mr. Ballinger, that is the only evidence so far as you have of his concern or information respecting this particular point?

Mr. PINCHOT. It is.

Senator ROOT. Do you understand that all three of these incorrect statements of Mr. Ronald which you have referred to are covered by his statement that he makes the assertions without any knowledge as to the record?

Mr. PINCHOT. They are covered, as I understand it, by his statement in his letter of October 25, that he makes this assertion on the basis of notations in Secretary Ballinger's handwriting.

Senator ROOT. Mr. Ronald?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. In other words, is the assertion on each of those three points an assertion which has as its ultimate authority Mr. Ronald's knowledge of Mr. Ballinger?

Mr. PINCHOT. And apparently Mr. Ballinger's knowledge.

Mr. PEPPER. The specific reference being to entries in Mr. Ballinger's writing in a memorandum on a copy of a magazine submitted to Judge Ronald by Mrs. Ballinger and afterwards made subject of a memorandum by Mr. Ballinger to the President?

Mr. PINCHOT. Precisely.

Mr. PEPPER. What inference can you draw from the submission of the memorandum by Judge Ballinger to the President except the inference that he wished the President to believe that the facts were as they are stated?

Mr. PINCHOT. I think it is perfectly obvious that he could have no other object.

Senator ROOT. You do not undertake to reconcile that with the fact that he had already made to the President in writing in a former communication a correct statement regarding all those subjects?

Mr. PINCHOT. I do not.

Mr. JAMES. Was this ever published in this magazine, the Outlook?

Mr. PINCHOT. I do not know. I can answer this way. So far as I am aware it has not been published.

Mr. DENBY. Did the original letter that went to the President sent by Mr. Ballinger contain the memoranda showing the sources of Mr. Ronald's information?

Mr. PINCHOT. That I can only answer by saying that the copy transmitted to me by the President in his letter of November 24 is the copy now in Mr. James's hands which contains that memorandum.

Mr. DENBY. And the presumption is that the original also contained a similar slip of course?

Mr. PINCHOT. I presume so.

Mr. DENBY. And that is specifically stated where Mr. Ronald got his information and how he got it?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. And it is upon the supposition that the document submitted to you is an accurate copy of that received of an original memorandum that you have made the statement that you have made?

Mr. PINCHOT. Of course, as it was submitted to me by the President I assumed, naturally, and still do assume, that it was correct.

Mr. DENBY. Is that the basis of your assertion in your opening statement that Mr. Ballinger deceived the President in three essential particulars?

Mr. PINCHOT. That is the basis of so much as concerns those three particulars. There are others.

Mr. PEPPER. You have read the letter of Mr. Ballinger of November 15. You have commented upon the various exhibits. Before taking up the President's letter transmitting them, have you any comment to make upon that letter of November 15 as a whole?

Mr. PINCHOT. The letter of November 15 as a whole, in the light of information now before the committee, in particulars which it is not necessary at present to go into, becomes a document easily traversed in various directions.

Mr. PEPPER. Are you referring to the matter of water power, administrative sites, and so forth, the various matters that are covered thereby?

Mr. PINCHOT. I am referring to each of those various matters, as to some of which evidence has been submitted to the committee, and as to others of which evidence will be submitted.

Mr. PEPPER. And when you speak of the further submission of evidence you refer particularly to the matter of the Reclamation Service which is not within your original knowledge?

Mr. PINCHOT. That is not within my original knowledge, and certain facts as to water power sites.

The CHAIRMAN. The committee will now take a recess until 2 o'clock.

(The committee thereupon took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled after recess at 2 o'clock p. m.

The CHAIRMAN. The committee will come to order. The examination will proceed.

TESTIMONY OF GIFFORD PINCHOT—Resumed.

Mr. PEPPER. Mr. Pinchot, before the adjournment you had concluded the reading of Mr. Ballinger's letter and your reference to the exhibits which accompanied it. That letter and those exhibits were inclosures, I think you stated, in the President's letter to you of November 24.

Mr. PINCHOT. They were.

Mr. PEPPER. Would you be kind enough to produce the President's letter itself and read it?

Mr. Pinchot (reading):

NOVEMBER 24, 1909.

MY DEAR MR. PINCHOT: I have your letter of November 4. I do not know that there is any necessity for my taking up your recital of the facts, except to state my disagreement with you in respect to what you call "illustrations of" what you believe to be "Secretary Ballinger's unfriendly attitude toward conservation." I have had a much better opportunity than you, from an examination of the entire record in regard to the Cunningham coal claims, to determine whether Mr. Ballinger's action in reference to them indicated any desire to permit the claims to ripen into patents without sufficient examination. The incident with reference to the refusal of access to the Cunningham claims in the General Land Office is fully explained in the records filed in answer to the Glavis charges.

Mr. PEPPER. Let me interrupt you to ask whether what you have just read constitutes the whole reference in the President's letter to the Cunningham claims in the Alaska coal cases?

Mr. PINCHOT. There is nothing else in that letter in regard to that matter.

Mr. PEPPER. So far as the President's utterance is concerned, that is the final word on the subject of the Cunningham coal claims?

Mr. PINCHOT. Yes, sir [continuing to read]:

I can not accept the suggestion, in the controversy over the ranger stations, that Secretary Ballinger intended to intimate that Secretary Wilson was not acting in good faith. Certainly Secretary Wilson has never regarded Secretary Ballinger's position in this respect as one of insinuation or charge against him. Nor can I agree with you in your statement as to just what occurred when you visited me to object to the withdrawals made on Secretary Ballinger's recommendation in March and April of last year. My recollection is that I told you I concurred with Secretary Ballinger in thinking there was no authority to make such wholesale withdrawals, and that that was the reason I had concurred in his recommendation; but that he had said that such wholesale withdrawals were not necessary for the preservation of water-power sites, and that he would acquire information from the Geological Survey sufficient to enable him to withdraw such sites as could be definitely ascertained. Mr. Ballinger does not attempt to deny that his wish to revoke the order of withdrawal was on the ground that he was opposed to such withdrawal as beyond the power of the Secretary, and he only concurs in the wisdom of the present withdrawals of water-power sites as the continuance of a power already exercised and temporarily made until Congress can act. Mr. Ballinger's view in regard to this matter concerns his construction of statutory powers, and I can not admit that a difference from Mr. Garfield's view in this regard argues in any way a lack of friendliness on the part of the present Secretary toward the general policy of conservation of resources.

Mr. PEPPER. And that concludes the reference to the water-power matter in this letter?

Mr. PINCHOT. It does.

Mr. PEPPER. Now, I direct your attention to that part of the President's letter in which he uses this language:

and that was the reason I had concurred in his recommendation; but that he had said that such wholesale withdrawals were not necessary for the preservation of water-power sites, and that he would acquire information from the Geological Survey sufficient to enable him to withdraw such sites as could be definitely ascertained.

What reference, if any, is there to that matter in the offer of proof that the suggestion of the use of the Geological Survey emanated from the Reclamation Service after your interview with the President in April of 1909?

Mr. PINCHOT. That matter will be fully set forth, as I understand it, by Mr. Davis, when he comes, showing that the suggestion, as you have just said, of the reference to the Geological Survey came not before my visit to the President but afterwards, and emanated not from Mr. Ballinger but from Mr. Davis.

Mr. PEPPER. There is an intimation or a statement here by the President as to some lack of agreement with you in your recollection as to just what occurred at the date of that visit, at the time of that visit. Without, of course, going into what did occur, I ask whether what the President says there leads you to change or modify the statement as to what did occur, as expressed by you in your letter of November 4?

Mr. PINCHOT. No. There is a disagreement between the President and me as to what the conversation was at that time.

Mr. PEPPER. I want you to be careful not to state what may have passed between you.

Mr. PINCHOT. I shall be careful not to say what passed between us.

Mr. PEPPER. I want merely to inquire whether the statement in the letter you are now reading does or does not shake your confidence in the accuracy of your statement made by you in your letter of November 4?

Mr. PINCHOT. Not in the slightest degree. My recollection of the President's statement was the recollection of a statement of vast importance to me as a man interested in conservation, and I think I would have attached more weight to what he said than he would himself.

Mr. PEPPER. Will you go on with your reading, after the words "policy of conservation of resources."

Mr. PINCHOT (reading):

I have thought it only fair to submit to Mr. Ballinger your letter and a letter which I have received from Secretary Garfield on the same subject, and invite from him a comment on the remarks of both. I submit this answer to your position not for the purpose of publication, and with the hope that the controversy may cease; but if it is not to cease, and if sometime this correspondence is to see the light, it is only fair that the answer of the person most concerned, and who has been bitterly attacked in the press, should be presented to you and made part of our correspondence.

I am bound to add that you have not by anything that you have suggested in your letter shaken in the slightest my confidence in Secretary Ballinger's good faith, and in his earnest and hearty cooperation in carrying out the policy of the conservation of our resources, in so far as that policy lies within the jurisdiction of his department.

I send you also a comment by the Commissioner of Indian Affairs on your criticism as to the mismanagement of the forests on the Indian reservations.

I do not ask any further correspondence on this subject, unless you insist on it. I wish to renew my earnest desire that you remain as Chief Forester and continue the work which you have been doing, and that you assist me by using your influence to prevent further conflict between the departments by published criticisms in the newspapers. I believe it to be entirely possible that Secretary Ballinger should pursue, as I have no doubt he will pursue, a consistent course in his department in support of the Government's policy of conserving natural resources, and I know you will do the same in the Forestry Department. With this result, I can not see why it is necessary that your attitude toward him, or his toward you, in different departments, should interfere with the efficiency of the government work, unless the time of both is taken up with a continuance of the controversy which I do not think is in the interest of the public service.

With the hope that you will regard this letter as written in an entirely friendly spirit, and in the anxiety to compose all differences and make the work go on in all departments, believe me,

Sincerely, yours,

WM. H. TAFT.

Mr. GIFFORD PINCHOT,
Forester, Department of Agriculture.

(Inclosures.)

The CHAIRMAN. Do you offer that in evidence?

Mr. PEPPER. If you please, sir.

The CHAIRMAN. It is admitted.

Mr. PINCHOT. I would like to say, in commenting upon that letter, that I appreciated at the time very deeply what the President was kind enough to say about me and my work, and what he was also good enough to say in his letter of September 13, but the situation was an exceedingly difficult one. Glavis had been removed from office upon the grounds that his charges were baseless. We now know that they were very far from baseless. What the President was asking me to do was, in substance, to work in harmony with Mr. Ballinger on the ground that his action concerning the water sites, the ranger stations, the Indian cooperative contract, and the other matters which have been discussed here was friendly to conservation, and that he was, in effect, a convinced advocate and supporter of that policy. I believed then, as I believe now, that that was not the fact, and the President was asking me to work in hearty cooperation with a man concerning whom I held opinions that I then held, and still hold, of Mr. Ballinger's action. What he was attempting to do seemed to me then, and seems to me now, an attempt to accomplish the impossible. It was an attempt originating in the best feeling and desire for the public welfare, but cooperation between the Forest Service and the Interior Department, which must be of the closest character if the government work is to prosper, was obviously impossible in the light of actual facts as to the situation. The President was, I think, attempting to do something that could not be done.

Mr. PEPPER. Well, now, Mr. Pinchot, that letter having been received by you in the spirit which you have indicated, what was the next step in this whole matter? Did anything occur thereafter, prior to the letter of Mr. Ballinger to Senator Jones, or is that the next chapter in the story?

Mr. PINCHOT. I believe that to be the next chapter in the story.

Mr. PEPPER. Such a letter was written?

Mr. PINCHOT. Such a letter was written.

The CHAIRMAN. What letter do you refer to?

Mr. PINCHOT. I refer, Senator, to the letter written by Secretary Ballinger to Senator Jones, and which was read in the Senate and published in the Congressional Record.

Mr. PEPPER. What action did you take upon any matter referred to or suggested by that letter?

Mr. PINCHOT. I wrote a letter——

The CHAIRMAN. Now, I think we had better stop right here if you are going to bring in evidence this letter that you sent to Senator Dolliver. I want to say to you and counsel that I have a letter from Secretary Wilson, who states that he would like to be present when that matter is brought up, and I wish you would postpone that

matter, if it is your intention to bring it out now, so that I can notify Secretary Wilson.

Mr. PEPPER. Mr. Chairman, we naturally would come to it in the course of a very few minutes in the examination.

The CHAIRMAN. We will telephone down to Secretary Wilson, and he will be here as soon as possible.

Mr. PEPPER. Certainly, sir.

The CHAIRMAN. You might go on with other branches of the case while the clerk telephones to Secretary Wilson.

Mr. PEPPER. You were about to say that you wrote a certain letter.

Mr. PINCHOT. I wrote a letter to Messrs. Price and Shaw, under date of December 24, asking them to report to me what action they had taken which gave rise to a statement contained in Secretary Ballinger's letter to Senator Jones, to the effect—I can not quote his language—but the general effect was that the members of the Forest Service had attacked the Interior Department in an improper way.

Senator ROOT. Is the letter that you refer to, Mr. Pinchot, one that appears on page 159 of our records here?

Mr. PINCHOT. 159 of the testimony?

Senator ROOT. Taken before this committee.

Mr. PINCHOT. That I believe to be the letter, Senator. May I read the clause which I just attempted to refer to?

The CHAIRMAN. Go on.

Mr. PINCHOT (reading):

And, furthermore, such investigation should embrace the Forest Service, since I have reason to believe that the pernicious activity of certain of its officers has been the source of inspiration of these charges and involve in part the common administration of the public domain.

Mr. PEPPER. In view of anything that was publicly said or rumored at the time of that letter, did you reach any conclusion as to whether individuals were there referred to?

Mr. PINCHOT. It was very clear, I thought, from the general knowledge and publication in the newspapers and otherwise, that Messrs. Price and Shaw were referred to.

Mr. PEPPER. And did you write them a letter under date of September 24?

Mr. PINCHOT. Under date of December 24.

Mr. PEPPER. I beg your pardon. December 24, 1909. And have you a copy of that letter?

Mr. PINCHOT. Not with me.

Mr. PEPPER. You wrote a letter to them, however, which was in substance what?

Mr. PINCHOT. It was in substance directing them to report to me what they had done which gave rise to the passage I have just read.

Mr. PEPPER. And did you receive in response to that communication a letter from them, or either of them?

Mr. PINCHOT. I received from them a letter, under date of January 5, I believe, setting forth in detail what they had done in relation to publicity.

Mr. PEPPER. I may say for the information of the committee that that joint letter of Messrs. Price and Shaw, sent by them to the Forester in the way he has described, was the letter which at an earlier stage of the sessions I brought to the attention of the committee.

The CHAIRMAN. You have not introduced it?

Mr. PEPPER. I have not introduced it in evidence, and I assume that it is an important part of the record and should be introduced at this point. Therefore I will offer it in evidence now.

The CHAIRMAN. Is there any objection?

Mr. VERTREES. We previously made objection, Mr. Chairman, to the introduction of that, which is a mere statement for the public, not in any way explanatory of these matters. You will recall that was the ground of our objection before.

Mr. PEPPER. I think Mr. Vertrees misapprehends the nature of the document referred to. This was the formal answer made by employees in the Forest Service to a letter of request from the Forester for a statement of the activities understood to be referred to in the letter to Senator Jones.

The CHAIRMAN. Is that among the official letters of the department?

Mr. VERTREES. That is not the letter, then, we had up under consideration?

Mr. PEPPER. Yes; it is the same letter of January 5, 1910; the formal reply of Messrs. Price and Shaw, in their official capacity as officers of the Forest Service, written in response to a request or direction of the Forester, and that letter, as will subsequently appear, was the letter upon which it was evidently regarded either by the President or the Secretary of Agriculture that the charge against these gentlemen was taken pro confesso, because they were, upon the basis of that letter, subsequently dismissed. I can not see how there could be any doubt about its admissibility as being a document in the case.

Mr. VERTREES. We will let it go in. I think our objection is well taken, but I would rather yield and let it go in.

The CHAIRMAN. The objection is withdrawn. Go on and introduce it, Mr. Pepper.

Mr. PEPPER. I have heretofore placed in the hands of the secretary of the committee that letter by the instruction of the committee, and I assume that Mr. Sleman still has it and will hand it to the stenographer.

The letter is as follows:

JANUARY 5, 1910.

The FORESTER.

SIR: We have the honor to comply with the instructions contained in your letter of December 24, 1909, which was as follows:

"WASHINGTON, December 24, 1909.

"Messrs. O. W. PRICE and A. C. SHAW.

"GENTLEMEN: In a letter from the Secretary of the Interior, recently made public in the Senate, reference was made to conduct on the part of members of the Forest Service alleged to be in contravention of official propriety. From statements made to me on my return to Washington last fall, and from comments in the public press, I assume that you are referred to. Accordingly I desire that you make to me a report setting forth in detail what you have done, and why, to bring about the above charges.

"Very truly, yours,

"GIFFORD PINCHOT, Forester."

We shall unite in a reply to your letter, since this enables us to present a connected narrative of material events. For the sake of clearness we shall frequently refer to ourselves in the third person as Price and Shaw and to you as the Forester.

This reply contains an outline of what we have done to bring about the charges to which you refer. If a more detailed statement is required, we shall be glad to make it, either orally or in writing.

We believe that our activities have been pernicious only from the point of view of those who have been hampered in urging fraudulent claims to the public domain. In all that we have said and done we have been animated by a desire to safeguard the public interest. We have nothing to conceal.

Our activities in connection with the Cunningham coal claims began with the receipt by Shaw in Washington, D. C., of the following telegram from L. R. Glavis, Chief of Field Division in the General Land Office:

"SEATTLE, WASH., July 16, 1909.

"A. C. SHAW,

"United States Forest Service, Washington, D. C.:

"There are approximately 700 Alaska coal filings in Chugach reserve case known as Clarence Cunningham group about to proceed to hearing. Cases of utmost importance. Property valued at millions. Would appreciate cooperation Forest Service by having your personal assistance. Could you proceed Seattle immediately?

"GLAVIS, Chief."

Before this date both of us were aware that the people of the United States were the owners of coal fields in Alaska reputed to be of enormous value. As members of the Forest Service we had an official interest in the portions of these fields which were included within the limits of national forests. We had no knowledge, however, respecting the so-called Cunningham claims, most of which lie within the Chugach National Forest.

After the receipt of Glavis's telegram Shaw, on July 17, 1909, went to the General Land Office and requested access to the record of the Cunningham claims. Access was granted, and Shaw began an examination of the record. In so doing he was acting in the discharge of his official duty. The national forests were originally, as is well known, in the charge of the Secretary of the Interior, but by the act of Congress of February 5, 1905, they were transferred to the Department of Agriculture. Under that act the control of the land covered by national forests, so far as concerns the acquisition of title by private claimants, remained in the Department of the Interior, while such control so far as it concerns the administration of all public property within the national forests was vested in the Department of Agriculture.

An order which, on May 17, 1907, President Roosevelt sent to the Secretary of the Interior in regard to cooperation between the Department of the Interior and the Department of Agriculture is in part as follows:

"Therefore I wish you would also have the local land officers refer all claims, applications for mineral entry, and final proofs for land within the forest reserves to you before taking any action which could give the applicant a disposable title to the land, in order that you may give the Secretary of Agriculture the opportunity of presenting to you any facts or arguments bearing upon them. All valid claims affecting forest-reserve land must of course be allowed when properly proven, but full force should be given to the testimony and arguments of the Secretary of Agriculture, who, as the direct administrative officer of the reserves, will be seriously affected by your decision."

By a similar order of the same date the Secretary of Agriculture was empowered to give the cooperation referred to. Notwithstanding this order above quoted, the Department of the Interior had failed to notify the Department of Agriculture of the pending Cunningham coal claims. Shaw's inspection of the record in the Cunningham cases was in pursuance of the orders above referred to and in conformity with established usage between the two departments.

On the following Monday Shaw returned to the Land Office to resume his inspection of the Cunningham record. While in progress, this examination was suspended and further access to the record refused at the direction of H. H. Schwartz, then acting as Assistant Commissioner of the General Land Office. Access to the records of claims within a national forest had never been refused before, and Price and Shaw combined in a vigorous protest against this unprecedented refusal, which was then withdrawn. Shaw thereupon proceeded with his examination of the Cunningham record.

The facts then and later ascertained show that fraudulent claims to valuable coal deposits on public lands have been persistently pressed against the Government; that certain officers in the Department of the Interior have pursued a course of conduct with reference to these claims such as was consistent with willingness that the claims should prevail rather than that the property in question should be retained by the people of the United States; that in the year between the resignation of Mr. Ballinger as Land Commissioner and the beginning of his term of service as Secretary of the Interior he had accepted a retainer from a number of these claimants; that a conspicuous exception to the above statement respecting the attitude of officials in the

Department of the Interior has been Glavis, who on at least two occasions had apparently been the only official in the Department of the Interior who prevented the immediate patenting of the claims in question without further investigation and without trial; that when Glavis's course had necessitated a trial of the validity of the claims other officials of the Department of the Interior had taken steps to precipitate a trial before the Government's case was fully prepared; and that it was only when Glavis had reached the limit of what he could do in the Department of the Interior or the protection of the interest of the people that he appealed to the Forest Service or such official cooperation as the public interests seemed to him to require, and as he President's orders of May 17, 1905, provided for.

After Shaw had examined the record, we suggested to the Secretary of Agriculture the necessity of making a formal request for a postponement of the hearings so as to permit an examination of the land covered by the claims within the Chugach National Forest. The request was made by the Secretary of Agriculture on July 24, 1909, and was acceded to. The collection of evidence accordingly proceeded, and by September, 1909, such a body of additional proofs had been assembled as will, in our judgment, result in a finding that the Cunningham claims are fraudulent, if the evidence is properly marshaled and the Government's case is worthily presented.

On August 2 Shaw received from Glavis the following telegram:

"Have damaging and conclusive evidence showing official misconduct of parties. Immediate conference advisable. When can you reach Seattle?"

Later on the same day Shaw received from Glavis a second telegram, as follows:

"Secretary and Commissioner are parties referred to. Wire answer Hotel Portland."

Shaw showed these telegrams to the Forester and to Price. Thereafter, without his knowledge of the Forester, who had just left for the West, Price directed Shaw to wire Glavis that a reliable person would call upon him for a statement of the facts mentioned in the telegram, and Shaw informed him that they would be published only if found to be substantiated by proof. It was the intention of Price to send Glavis a press correspondent with whom Price also communicated. But the correspondent and Glavis did not meet, for Glavis, before receiving the letter from Price, went to Spokane and called upon the Forester, who was in Spokane at the time, and indicated his intention of making public the evidence which he had obtained.

We understand, however, that the Forester counseled Glavis to make no public statement whatever of the matter, and advised him to address himself direct to the President of the United States. We further understand that when the correspondent above referred to saw the Forester he yielded to the request of the Forester not to seek an interview with Glavis. Glavis stated that his data was not in suitable form for submission to the President and requested the assistance of Shaw to give form to his report. The Forester accordingly instructed Price by telegraph to direct Shaw to meet Glavis in Chicago.

Shaw found Glavis's proposed report to the President practically completed. They examined it together, and Shaw made certain suggestions, both as to substance and form. Glavis rejected such suggestions as to substance as involved facts of which he had no independent knowledge, stating that he would embody nothing in the document except what he already knew himself. Shaw's suggestions as to form were in great part adopted. When the material was in shape, Glavis procured a stenographer, and Shaw, in the presence and under the supervision of Glavis, read the notes to her and she transcribed them. Appended to the report were copies of certain documents referred to in the report. The list of appended documents did not purport to include all the documents in the case; but (so far as Shaw knew or now knows) no material document was omitted unfavorable to Glavis's contentions.

From Chicago Shaw returned to Washington, and Glavis sought the President at Beverly, Mass. Immediately after this interview with the President Glavis telegraphed to Shaw to come to Boston, as the President had asked for data in relation to water-power withdrawals which Glavis was unable to give, and Glavis wished to obtain the data from Shaw before the President should again send for him. Shaw went to Boston and conferred with Glavis. Not hearing from the President again, Glavis (while Shaw was still with him) called up the President's secretary at Beverly, and was informed that the President might wish to see him later, but that at present Glavis might go back West. Glavis and Shaw then went to New York, where Glavis endeavored to obtain an interview with the Attorney-General. Failing in this, Glavis left a message with the Attorney-General's secretary, asking whether he (Glavis) could go to Washington and undertake further investigation respecting the Cunningham claims in the Interior Department. In reply he received a message from the Attorney-General that this was not his department, and that Glavis must act on his own judgment. Glavis consulted on this point with Shaw, who advised against the course, and Glavis then went west. Shaw called up Price at Washington, told

him what had happened, and advised against giving anything to the press. Shaw forthwith proceeded to Washington and reached there late in the evening of August 24, 1909. Price, however, had already given to the Washington Post material consisting of matter obtained chiefly from the records of the Cunningham claims in the General Land Office. That same evening Price directed Shaw to take to the office of the Washington Post a copy of the opinion of the Attorney-General, dated June 12, 1909, which Shaw accordingly did. At this time the Forester was in the West and he knew nothing of Price's action.

After this publication newspaper articles appeared, some favorable to the Department of the Interior and others opposed. Some of these articles contained material derived from the records of the Land Office and the Forest Service, furnished by Price and by Shaw at the direction of Price in response to inquiries by the press. Price also gave information to the representatives of several magazines. In so doing he acted upon the theory that there are no facts which the people of the United States are not entitled to know respecting the source, nature, and progress of the claims of individuals seeking to acquire for themselves large portions of the public domain except those facts a general knowledge of which would be prejudicial to the Government's case.

At the instance of Price a copy of the Glavis report, before that report had been acted upon by the President, was shown to three representatives of the press. In each case the report was shown in strict confidence, under the promise that no part of the record obtainable only from it would be published.

In taking and directing action as herein set forth in the Forester's absence, without his knowledge and against the spirit of his instructions sent from the field during the summer regarding the importance of avoiding all unnecessary publicity, Price assumed on his own initiative a still further responsibility.

Thereafter, on September 13, 1909, the President addressed to Secretary Ballinger a letter in which in substance he characterized Glavis as being zealous but mistaken, charged him with having suppressed data which if included in his report would have given a different significance to documents quoted by him, expressed his approval of the course pursued by Secretary Ballinger and of his subordinates in the Land Office, and authorized the dismissal of Glavis from the service of the Government.

After the President had acted, the all-important question of the validity of the Cunningham claims still remained for decision. We were convinced that the claims were invalid. We knew that on two occasions Glavis alone had stood between the people and the patents. Now that he had been removed, the question was whether anybody else in the Department of the Interior could be counted upon to come forward as the people's champion. It was certain that Secretary Ballinger would not act in the matter, for he had made a declaration to that effect. The Government's defense accordingly was left principally in the hands of Pierce, Dennett, and Schwartz. It was upon the basis of a formal opinion rendered by Pierce that the Land Office had earlier in the year stood ready to patent the claims. Dennett, in his letters of July 22 and 27, 1909, had lamented, in writing to Schwartz, the probability that the coal lands would be preserved for the people of the United States rather than patented to fraudulent claimants. Moreover, the study of the President's opinion made it clear to us that from some source an impression of the facts had been conveyed to him which in material particulars was not correct. Feeling that there was no alternative but to appeal to the people by giving further publicity to the material contained in the Glavis report, we accordingly communicated with Glavis respecting the publication. With our knowledge and approval Glavis addressed to the President an open letter. Thereafter Glavis began the preparation of his report for publication. The representatives of several journals had communicated with Price for the purpose of securing this material, but Price was not a party to the selection of the medium of publication. During the preparation by Glavis of his report, which he subsequently decided to publish in Collier's Weekly, Price, in the absence of the Forester, directed Shaw to stop off at Chicago on his way to Seattle to attend the hearings in the trial of the Cunningham cases in order to secure from Glavis information relative to the Government's defense against the claimants. Price also directed Shaw to examine the manuscript which Glavis was preparing. Shaw accordingly examined the manuscript. Shaw was of the impression that the Forester knew that Shaw would see the Glavis manuscript at Chicago in October, but Price says this was not the fact. The manuscript examined by Shaw was never, in fact published. The article later published in Collier's differed from the manuscript seen by Shaw in both form and substance. About October 15 Price examined the Glavis manuscript. So far as is known to either Price or Shaw, Glavis had not received and will not receive any compensation for this publication.

We have assumed throughout the truthfulness and accuracy of Glavis's statement of facts, which have been borne out by the records of the land office, in so far as we

have had access to them, and by all other specific information we have obtained. We are of course aware that, from the point of view of comity between the departments, our conduct has been irregular. As employees of subordinate rank in the Department of Agriculture, we have violated official precedents in directing public attention to the conduct of public business in the Department of the Interior. But nothing that we have either said or done has been for any other purpose than the protection of the property of the people and Government of the United States against claims which we believe were fraudulent, and in respect to which there was grave and immediate danger of public loss.

Respectfully,

O. W. PRICE.

A. C. SHAW.

Mr. PEPPER. Then, Mr. Pinchot, coming to the date of January 5 or 6, we reach, do we not, the point at which the chairman suggested that we should pause because on or about one of those days you wrote the letter to Senator Dolliver?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. It is with reference to that that Secretary Wilson desires to be present.

Mr. PEPPER. I do not see, Mr. Chairman, how I can very well proceed until the secretary comes.

The CHAIRMAN. Have you not other branches of your case that you could pursue now?

Mr. PEPPER. All that I wish to do is to question Mr. Pinchot, so far as his testimony is concerned, upon the circumstances attending the Dolliver letter, the subsequent receipt by Mr. Pinchot of a letter from the President, dismissing him from the service, and with those matters shall put Mr. Pinchot at the disposal of Mr. Vertrees.

The CHAIRMAN. I would suggest that as it is a matter of courtesy to Secretary Wilson, that he should be given an opportunity to be present. Suppose you let the counsel go on and cross-examine Mr. Pinchot, and then as soon as Secretary Wilson comes resume your examination.

Mr. PEPPER. I am entirely ready to do that. But I think, sir, that I could bring the matter to a point at which it will be for the committee to decide whether or not any question of fact as between Mr. Pinchot and the Secretary of Agriculture will be raised, and perhaps he can go on to that point without in any way—

The CHAIRMAN. Well, I suggest that you drop this matter—it won't take long—and go on with the cross-examination and then as soon as Secretary Wilson comes you can resume your examination. I suppose you have no objection to that, Mr. Vertrees?

Mr. VERTREES. Yes, I have. If it is the pleasure of the committee I would prefer to postpone the cross-examination until he is through, and I was about to make this application—

Senator ROOT. I was going to inquire whether Mr. Pepper had not some other witness that he could put on?

Mr. PEPPER. Well, I purpose to call Mr. Garfield as my next witness, but while Mr. Garfield is in the city and could be reached—

The CHAIRMAN. He was right here a moment ago.

Mr. PEPPER. He was told that he would not be needed until after the cross-examination of Mr. Pinchot was over.

Mr. DENBY. I move that we take a recess for half an hour.

The CHAIRMAN. I am informed by the clerk that the Secretary of Agriculture has not returned from the Cabinet meeting. They are trying to reach him at the Cabinet meeting.

Mr. PEPPER. Mr. Garfield was here a while ago and I had some conference with him, and I told him he would not be needed until after the cross-examination of Mr. Pinchot.

Mr. McCALL. Mr. Pinchot, I would like to ask you a couple of questions in regard to a matter to which you have not testified. I have received from time to time a number of letters concerning the Hetch Hetchy Valley in Yosemite National Park, and I have a letter here from a correspondent who proposes that I ask you two questions. He wishes to know what part you took in turning over the Hetch Hetchy Valley in Yosemite National Park to the city of San Francisco for a water reservoir.

Mr. PINCHOT. The answer to that, Mr. McCall, is a somewhat complicated one, because the Hetch Hetchy Valley has not been turned over to the city of San Francisco for a reservoir.

Mr. McCALL. Then it would be a very simple answer.

Mr. PINCHOT. My part in it, in what has been done, dates back some years, when application was made to me as Forester to assist the city in getting water rights—and I have for a number of years back been more or less familiar with the progress of the case—but as you realize, doubtless, the Secretary of the Interior is the man who makes the decision in that matter. My connection with it was purely advisory from the start.

Mr. McCALL. They also wish to ask this question—what part, if any, you had in suggesting to the officials of the city to make application to have the case reopened after Secretary Hitchcock had ruled that the executive department had no power under the act to establish the park.

Mr. PINCHOT. It is a good while ago, and I am not clear that I can recollect accurately in the matter. What memory I have, however, is to the effect that the attorney for the city of San Francisco came to me, and that the suggestion of any action originated with the city and not with me, but the case is so long and complicated a one that I should be unwilling to make any definite statement until after an opportunity to review it.

Mr. OLMSTED. While we are on this point, may I ask a question? I wish to ask whether or not the Cunningham claims in Alaska were located in or immediately surrounded by a natural forest?

Mr. PINCHOT. The Hetch Hetchy National Forest was created in July; the first proclamation—the proclamations are of record—in July, 1907. It was subsequently enlarged by a second proclamation, I think, in the same year, and both those times excluded the Cunningham coal claims. But it was increased again the third time in February, 1909. At the time the record was filed it was believed that the eastern boundary of the Hetch Hetchy National Forest corresponded with the meridian of 144 degrees west. It is now discovered that that is not the case, that the eastern line lies about 5 miles farther east, 4 or 5 miles farther east than was supposed, and apparently all the Cunningham claims, therefore, are included within the boundaries of the Hetch Hetchy National Forest as established in February, 1909.

Mr. OLMSTED. I mean not as a forest created; not a constructive forest, but a real forest with trees out in it.

Mr. PINCHOT. How much of the Cunningham claims are covered by heavy timber and how much by scattered timber I do not know.

I have been informed that some of the claims were covered with very heavy timber.

Mr. OLMSTED. Let me get at it so that I can understand it. This may not be of any importance, but I can not understand why the forest was enlarged; the statutory or constructive forest was enlarged in February, 1909, so as to cover the Cunningham claims.

Mr. PINCHOT. The forest was enlarged running from the crest of the mountains down to the water, and the addition included, as we believe, very valuable timber lands.

The CHAIRMAN. Does it run east of the one hundred and forty-first meridian?

Mr. PINCHOT. The eastern boundary, as certified by the Director of the Coast and Geodetic Survey, is within the meridian 143° and $54''$, but a minute in that latitude is less than a mile.

The CHAIRMAN. It is west then?

Mr. PINCHOT. East; no. The meridian is west; yes, sir.

The CHAIRMAN. That makes it farther west than St. Elias meridian, much farther west?

Mr. PINCHOT. I do not recall.

Mr. OLMSTED. Was the purpose of the extension of the forest, or was one of the purposes, to embrace these coal claims?

Mr. PINCHOT. It was not.

Mr. OLMSTED. That was merely incidental?

Mr. PINCHOT. That was merely incidental.

Mr. OLMSTED. I want to ask one more question. I do not know anything of the forest or land laws. Would the extension of the forest over the land covered by this claim affect in any way the rights, if any existed, of persons who had located prior to such extension?

Mr. PINCHOT. Not in any way.

Mr. OLMSTED. Or change in any way the control of the decision of those claims from one department to another?

Mr. PINCHOT. The decision would still remain with the Department of the Interior; but under the President's letter of May 17, 1905, it would become the duty of the Secretary of Agriculture to cooperate with the Secretary of the Interior in ascertaining the facts on the ground—

Mr. OLMSTED. As to the coal?

Mr. PINCHOT. As to whether or not they were bona fide locations. The facts on the ground which establish the character of the claim.

The CHAIRMAN. But the ultimate decision would be by the Secretary of the Interior?

Mr. PINCHOT. The ultimate decision would be by the Secretary of the Interior.

The CHAIRMAN. Without the intervention of the Secretary of Agriculture?

Mr. PINCHOT. The Secretary of the Interior has complete jurisdiction.

Mr. PEPPER. And further answering the question suggested by Mr. Olmsted, you might have gone so far as to say, might you not, that even if the creation of the national forest had antedated the location, such location would still have been possible as mineral entries under the law within the limits of the national forest?

Mr. PINCHOT. Yes, sir. I might say along that line that the mineral laws would apply outside the national forest as they do inside.

Mr. PEPPER. That includes the coal-land laws?

Mr. PINCHOT. Yes, sir; as well.

Mr. OLMSTED. And when they do apply they are within the control of the Department of the Interior and not of the Department of Agriculture?

Mr. PINCHOT. Except so far as I have described.

Mr. OLMSTED. I mean so far as coal is concerned.

Mr. PINCHOT. Yes, sir.

Senator SUTHERLAND. So that the creation of a forest reserve does not in any manner interfere with the location of mineral claims, including coal lands?

Mr. PINCHOT. Precisely.

Senator FLINT. Does it not to this extent—that the Forester has in the past made an examination as to the lands sought to be acquired under the mineral laws to ascertain whether or not, as a matter of fact, they were mineral lands?

Mr. PINCHOT. That is exactly true and in accordance with my statement made a moment ago. The decision as to whether patents shall issue or not is entirely in the hands of the Secretary of the Interior, but under that letter of President Roosevelt cooperation exists between the two departments and the ascertainment of facts on the ground becomes the duty of the Secretary of Agriculture as to claims located within the national forest.

Mr. OLMSTED. Now, suppose that where a claim has been located as a coal claim and your men should find there was no coal there, then the control would be in the Forestry Department.

Mr. PINCHOT. No, sir; we would so report to the Secretary of the Interior.

The CHAIRMAN. Suppose you had a case where your man, as in this case, has reported no coal, and an officer of the Interior Department, like Mr. Kennedy, had reported coal. What would you do then?

Mr. PINCHOT. The matter would be in the hands of the Secretary of the Interior to decide. Every report is made to the Forestry Department and a decision made by them.

The CHAIRMAN. It is simply advisory?

Mr. PINCHOT. It is simply advisory; and we state the facts, but the decision and the responsibility rests with them.

Senator FLETCHER. Was it in accordance with practice and perfectly proper for Mr. Glavis to make reports to the Forestry Bureau of what was going on in connection with the coal claims?

Mr. PINCHOT. The action which he took was an extraordinary and unusual action, because it was in effect, as I understand, an appealing over the head of his superior or against his superiors to the members of another department, and in this case it was an extraordinary and unusual action.

Mr. PEPPER. Are you speaking of the act of Mr. Glavis in reporting to you or his act in telegraphing to the Forestry office in July?

Mr. PINCHOT. I am speaking of his action in July.

Senator FLINT. If the matter of such a valid grant by the Secretary of the Interior is to be in controversy, I would like to have that contract set forth and placed in the record.

The CHAIRMAN. What contract?

Senator FLINT. Between the city of San Francisco and the Secretary of the Interior in reference to what work can be done in Elinore and Hetch Hetchy Valley.

Mr. PINCHOT. With the Senator's permission I will get one. May I suggest that since the original of that is in the Interior Department a call might be made by the committee for it.

Senator FLINT. That is my suggestion, that the chairman ask the Secretary of the Interior to send a copy of that agreement.

The CHAIRMAN. We will call for it and have it sent.

Mr. DENBY. I move we now take a recess.

The CHAIRMAN. I think the Secretary will be here in a few moments.

Mr. DENBY. I will withdraw the motion, then.

The CHAIRMAN [after a pause]. The Secretary of Agriculture is now here.

Mr. PEPPER. Mr. Pinchot, we had reached the point in your examination where reference was made to a certain letter written by you to Senator Dolliver. Will you be kind enough to say when that letter was written?

Mr. PINCHOT. It was written on the date, as I recall, of January 5. I have a copy of it here.

Mr. PEPPER. And under what circumstances?

Mr. PINCHOT. It was written to Senator Dolliver at his request as an explanation to him of the state of facts set forth in the Price and Shaw report of the same date.

Mr. PEPPER. Will you, with the permission of the chairman and the committee, read the letter which I shall then offer in evidence?

Mr. PINCHOT (reading):

JANUARY 5, 1910.

Hon. J. P. DOLLIVER,
Committee on Agriculture and Forestry,
United States Senate.

Senator ROOT. Mr. Pepper, that letter is in evidence and appears at page 160 of our record already.

The CHAIRMAN. It is already in the record.

Mr. PEPPER. I should have said I would call attention to its having appeared in the record.

Mr. PINCHOT (reading):

MY DEAR SENATOR: In accordance with your request, I am glad to make a statement concerning certain actions of Messrs. Price and Shaw, chiefly in reference to claims for coal lands located within the Chugach National Forest. By my direction, they have prepared an official report upon the subject, which I am transmitting at once to the Secretary of Agriculture.

This report shows that Messrs. Price and Shaw made public certain official information regarding the so-called Cunningham claims for coal lands in Alaska. The effect of the publication was to direct critical public attention to the actions of the Interior Department.

It shows also that they countenanced the publication by L. R. Glavis of certain facts concerning these claims after he had been dismissed from office; and that in other ways they endeavored to direct public attention to the imminent danger that the Alaska coal fields still in government ownership might pass forever into private hands with little or no compensation to the public.

The report further makes it clear that the information in reference to the Cunningham coal claims made public by Price and Shaw was properly within the knowledge of the Forest Service, because these claims lie chiefly within a national forest. This information also was of a nature proper to be made public, unless there are secrets which the people of the United States are not entitled to know concerning the source, nature, and progress of claims made for portions of the public lands. The rumor that

the Glavis report to the President was prepared in or by the Forest Service is incorrect. At Glavis's request I sent Shaw, as it was proper I should, to Chicago to assist him in arranging his material for submission to the President. No material contained in the Glavis report was contributed either directly or indirectly by any member of the Forest Service.

Messrs. Price and Shaw were confronted by an extraordinary situation. Information had come to them which convinced them that the public interests in a matter within the line of their official duties were in grave danger at the hands of fraudulent claimants to these coal lands.

Action through the usual official channels, and finally even an appeal to the President, had resulted (because of what I believe to have been a mistaken impression of the facts) in eliminating from the government service, in the person of Glavis, the most vigorous defender of the people's interests. Furthermore, the refusal of the Secretary of the Interior to assume responsibility in the cases had left their conduct wholly in the hands of subordinates, each of whom was apparently committed in favor of patenting these claims.

Finally, from the report as a whole it is abundantly evident that the action of Price and Shaw was taken with the single object of protecting the property of the people of the United States. It is clear not only that they acted from a high and unselfish sense of public duty, but that they deliberately chose to risk their official positions rather than permit what they believed to be the wrongful loss of public property.

You asked me what recommendation I would make to Secretary Wilson as to Price and Shaw. Without hesitation I shall take the position that their action violated a rule of propriety as between the departments. It deserved a reprimand, and has received one. But I shall recommend, likewise without hesitation, that no further action in their case is required.

My reasons for this recommendation are as follows:

The action of these two men was most unusual, but so was the situation which called it forth. The best proof is that Congress itself has been asked to take the extraordinary step of investigating the Department of the Interior, notwithstanding that it is a part of a coordinate branch of the Government. This action of Congress can not be ascribed to the conduct of two subordinate officials.

Price and Shaw successfully directed public attention to a national danger. They increased the people's interest in the people's property, and powerfully fostered the desire to conserve it. There is now far less chance that the Alaska coal fields will pass into the hands of fraudulent claimants than there was before they acted.

They acted on what they believed to be trustworthy information. Many considerations, which had not been brought home to the President's mind, as appears from his letter of September 13, had weight with them.

The rules of official decorum exist in the interest of efficient administration, and of that alone. If they are used to prevent an honest and vigilant officer from saving property of the public, their purpose is violated and they have become worse than useless.

Price and Shaw concede that what they did transgressed propriety. But measured by the emergency which faced them, by the purity of their motives, and the results which they accomplished, their breach of propriety sinks well-nigh to insignificance.

I disclaim any intention or desire to shirk any part of my own legitimate responsibility for what was done by Price and Shaw, who were selected by me, and trained in the Forest Service. If they appealed too readily to public opinion, it must be remembered that they belong to a service which has been, and is now, almost wholly dependent upon enlightened public approval.

I have known Mr. Price for about fifteen years, and Mr. Shaw for about seven years. They are honorable men of great experience and high efficiency in their work, and of peculiar value to the Government. They endangered their positions and the chance to continue their life work for the sake of protecting the interests of the people in this country in a matter of vast public importance. They deserve no further condemnation.

What Price and Shaw did raises a question of principle which should not be obscured either by personal considerations or possible mistakes on their part. This question relates to the duty of a public officer. It may be answered thus: A public officer is bound first to obey the law and keep within it. But he is also bound, at any personal risk, to do everything the law will let him do for the public good.

In taking unusual steps under this principle of public duty the faithful public servant may risk reprimand or dismissal. So may any man who does his duty under difficulties.

Jefferson said in justification for the unusual action of the Louisiana purchase:

"The Executive, in seizing the fugitive occurrence, which so much advances the good of their country, has done an act beyond the Constitution. The Legislature in

casting behind them metaphysical subtleties and risking themselves like faithful servants must ratify and pay for it, and throw themselves on their country for doing for them unauthorized what we know they would have done for themselves had they been in a situation to do it."

When Price and Shaw forced publicity concerning the Cunningham claims they broke no law and at worst were guilty only of the violation of official propriety. Without question, they did for the people of the country what the people would have done for themselves had they been in a situation to do it.

Very sincerely, yours,

GIFFORD PINCHOT,
Forester.

The CHAIRMAN. Did you consult the Secretary of Agriculture before sending that letter?

Mr. PEPPER. Mr. Chairman, I very much hesitate in interrupting you in a question addressed to the witness, but if it is not asking too much, I would ask permission to question him just very briefly about that letter before answering your question.

The CHAIRMAN. Yes.

Mr. PEPPER. Thank you. Mr. Pinchot, in that letter you speak of your belief that the President had taken action under a misapprehension of fact. Will you be good enough to tell the committee what your reference was?

Mr. PINCHOT. My reference was to the state of the President's mind shown in his letter of September 13, which preceded the dismissal of Mr. Glavis. It seemed to me, as it seems to me now, that there are certain considerations which can not have been present in the President's mind at the time he took the action which he did. I refer particularly, if I may proceed—

Mr. PEPPER. Certainly, refer to the letter itself.

Mr. PINCHOT. I refer particularly to two statements in the letter itself, or rather to one statement and one omission. The President says in his letter of September 13 to Mr. Ballinger:

I find the fact to be that as commissioner you acquired no knowledge in respect to the claims except that of the most formal character and nothing which was not properly known to your clients when they consulted you.

It has been brought out before this committee that Mr. Ballinger probably knew more, most certainly knew more about the Cunningham claims than any other man in the government service. He had learned what Love knew, what Jones knew, what Glavis knew; he had had repeated consultations with the various agents during the summer of his commissionership. He was as thoroughly aware as anyone in the service.

Mr. OLMSTED. Did you know those things when you wrote that letter?

Mr. PINCHOT. Did I know what?

Mr. OLMSTED. The things you are reciting are matters that have been proved here.

Mr. PINCHOT. I knew some of them, at that time; yes, sir.

Mr. JAMES. You are talking about the President's statement that Mr. Ballinger had only slight acquaintance with them, not your knowledge of it.

Mr. PINCHOT. The point is that Secretary Ballinger knew this; the President did not.

Mr. PEPPER. Are you speaking in the light of what you knew when you wrote the letter to Senator Dolliver, when you speak of that?

Mr. OLMSTED. That is what I want to know.

Mr. PINCHOT. I am.

Mr. GRAHAM. May we have the answer the witness was making so as to have the connection again?

(The stenographer read as follows:)

It has been brought out before this committee that Mr. Ballinger probably knew more, most certainly knew about the Cunningham claims than any other man in the government service. He had learned what Love knew, what Jones knew, what Glavis knew; he had had repeated conversations with the various agents during the summer of his commissionership. He was as thoroughly aware as anyone in the service.

Mr. PINCHOT. He was as thoroughly aware as anyone in the government service of the exact situation of the Cunningham claims. He had had, in addition, consultation with the claimants themselves. Governor Miles C. Moore had been to Washington and had interviewed him.

Mr. PEPPER. When was that?

Mr. PINCHOT. That was just previous to the clear listing.

Mr. PEPPER. And subsequent to what, as appears in the testimony before another committee—subsequent by how long to the date of the exercise of the Guggenheim option?

Mr. PINCHOT. It was subsequent a week or two. That option was exercised in September, 1907, and Governor Moore came to Washington before the first of the year, probably about December 20. There was a concentration of all the information that there was upon Secretary Ballinger, and he knew more, as the record shows, of these claims than any other man whose knowledge is disclosed by the record, as I understand it.

Mr. OLMSTED. What I meant to inquire was whether you were speaking of what you knew when you wrote that letter, or what you had acquired from reading this record.

Mr. PINCHOT. I am speaking of what Mr. Ballinger knew and did not apparently disclose to the President.

Mr. OLMSTED. Did you know what he knew when you wrote the letter.

Mr. PINCHOT. I do not see what difference that makes. I knew a great deal of it.

Mr. OLMSTED. I would like to have you answer the question I asked. Did you know, for instance, that Governor Moore had been here?

Mr. PINCHOT. No, sir; I did not.

Mr. OLMSTED. Then, it was not upon those things that you based that letter? That is the purpose of my inquiry.

Mr. PINCHOT. It was upon the whole state of the facts.

Mr. OLMSTED. As you understood them at that time.

Mr. PINCHOT. As I understood them at that time, and I think I have the right to adduce in support of my position the additional facts which have been developed before the committee.

Mr. PEPPER. May I ask you—your answer on this particular point, however—is it not a fact that hearings, so called, given by the commissioner to Governor Moore in December, 1907, are referred to in the answers contained in Senate Document No. 248, sent to the President by Mr. Schwartz or Mr. Dennett?

Mr. PINCHOT. Yes.

Mr. PEPPER. And had you not had access to that document when you wrote your letter of January 6?

Mr. PINCHOT. I had access only to that part of it which contained the opinion of the Attorney-General.

Mr. PEPPER. And in regard to the matter you have now spoken about, the matter of the knowledge of Mr. Ballinger as having been more than a merely formal knowledge, what have you to say with respect to the apparent oversight by the President of the matter of clear listing?

Mr. PINCHOT. I think it is, on the whole, the most important fact in the letter in this connection. That the President should have written his defense of Secretary Ballinger, or his letter to Secretary Ballinger without reference to the state of facts which has developed before this committee in the clear-listing matter, is to my mind of very great significance.

The CHAIRMAN. Has not that matter been gone over, that clear-listing question, in the report of the Attorney-General to the President upon the case?

Mr. PINCHOT. I did not say that it had been gone over. It had not been gone over. It had been mentioned.

The CHAIRMAN. There is a whole page in the report to which I called your attention this morning.

Mr. PINCHOT. Mr. Chairman, with your permission I would like to state what the values are as to the clear listing as they have developed here and then compare them with what the Attorney-General said. Mr. Ballinger had had conferences with Special Agent Love and with Special Agent Jones, repeated conferences, proof of which is in the record, during the summer of 1907. He had then had a long conference in Washington with Special Agent Glavis. He had then had a conference with ex-Governor Moore.

Mr. PEPPER. By the way, has there been preserved any of the customary records of such a hearing as is referred to?

Mr. PINCHOT. Not to my knowledge. He had ordered Mr. Glavis to make a very thorough investigation of the claims. The whole movement of the department's action was in the direction of a very thorough examination of these claims, and it was obvious in the middle of December, 1907, from everything that had been done, that the department was not ready to take final action. Then the option of the Guggenheims was exercised. Governor Moore comes to Washington, Glavis leaves to complete his investigation; even before the letter had been signed which officially directed Mr. Glavis to make his investigation of the claims they were ordered clear listed by the personal action of Secretary Ballinger, as he himself says on the Love report, a report which the author of it denies indignantly is a favorable report, and which a careful examination will reveal not as a recommendation but as an explanation in relation to the conduct already taken.

Mr. DENBY. What do you mean by saying that the Guggenheim option was exercised?

Mr. PINCHOT. I mean that the Morgan-Guggenheim-Alaska syndicate on December 7, 1907, by a telegram, which is of record in a hearing before the Committee on Territories, had exercised its option—that is to say, had accepted an offer made to it, by a committee, of the Cunningham claims.

Mr. DENBY. The offer was to give them an option?

Mr. PINCHOT. Then they took the option.

Mr. DENBY. The option to be exercised in case they got their patents. Was not that the case?

Mr. PINCHOT. That is true, but what they did was to make certain offers to this syndicate.

Mr. PEPPER. I will interrupt you for a moment. I do not think it is proper for us to go into what is not yet before the committee which refers to the contents of written documents. I think Mr. Denby will find that there was an option contract dated in July, 1907, which was exercised on December 7 by the acceptance of the option.

Mr. DENBY. That is all I wanted to get at.

Mr. PEPPER. That is the fact.

The CHAIRMAN. I think we ought to drop that.

Senator FLETCHER. Let him finish his answer.

Mr. PINCHOT. In the face of that condition of facts, as I have said, the whole movement of the official action in the direction of further examination Secretary Ballinger himself, on what is denied by its author to have been a clear-listing report, clear listed these claims. The action seems to me to have been extraordinary in the highest degree. It is no more than fair to say that if a subordinate of the Forestry Service, while I was Forester, should have taken corresponding action, that I would have dismissed him at once, either for corruption or incompetence, and I should not have cared very much which, and yet the President makes no reference whatever to that state of affairs in his letter.

Mr. PEPPER. The property involved being of what magnitude or value?

Mr. PINCHOT. The property involved being, according to various estimates, worth from \$50,000,000 to \$100,000,000.

Mr. PEPPER. Mr. Pinchot, had you reference in the clauses of the Dolliver letter, which you are commenting upon, also to the matter of the Ronald letter, which was before the committee a while ago?

Mr. PINCHOT. I had.

Mr. PEPPER. In regard to which your thought was what?

Mr. PINCHOT. It seems to me clear that, whatever may have been in Secretary Ballinger's mind—I am not a psychologist, and do not like to attempt to predict—it is perfectly clear, however, that the letter would not have been sent by Mr. Ballinger to the President unless he had expected the President to believe it, and it is equally clear that the President would not have sent it to me unless he did believe it and expected me in my turn to believe it.

Mr. PEPPER. What followed upon the sending of the letter to Senator Dolliver which you have just read?

Mr. PINCHOT. The next step—

The CHAIRMAN. I would like to have him answer my question.

Mr. PEPPER. I am not losing sight of that, Mr. Chairman. I hope you will trust me for a moment. I will bring him to a point where the matter will be clearly before the committee. I want to inquire what happened subsequent to the sending of the letter to Senator Dolliver.

Mr. PINCHOT. The next point in the record is the letter of the next day from the President to me dismissing me from the service and accompanied by a short letter from Secretary Wilson to carry the dismissal out.

Mr. PEPPER. Are these the documents to which you have last referred [exhibiting papers]? If so, I offer them in evidence.

Mr. PINCHOT. They are the documents.

Mr. PEPPER. I do not think that they have yet been offered in evidence.

The CHAIRMAN. No, sir; they have not yet been offered in evidence.

Mr. PEPPER. Be kind enough to read them; first the letter of the Secretary of Agriculture.

Mr. PINCHOT (reading):

DEPARTMENT OF AGRICULTURE,
Washington, January 7, 1910.

SIR: By direction of the President, you are hereby removed from your office as Forester. You will deliver possession of your office affairs belonging to the Government to Mr. Albert F. Potter, Assistant Forester.

Respectfully,

JAMES WILSON,
Secretary.

Mr. GIFFORD PINCHOT,
Forester, Department of Agriculture.

Mr. PEPPER. Then the President's letter to you.

Mr. PINCHOT (reading):

THE WHITE HOUSE,
Washington, January 7, 1910.

SIR: The Secretary of Agriculture informs me that on the 28th of December your associate forester, Mr. Price, went to him and proposed to resign on the ground that he had been engaged with Mr. Shaw, assistant law officer, in instigating the publication in various newspapers and magazines attacking the good name of Secretary Ballinger and charging the Interior Department and the Land Office with corruption. The Secretary thereupon wrote a note to you, under date of December 29, asking for your recommendation in the premises. You did not answer, but on January 4 you had a conversation with him in which you said you wished to make a statement which should be read in the Senate at the same time that my message transmitting the record in the Glavis case reached there, and that you thought you could induce Senator Dolliver to introduce the statement for you. The Secretary advised against such a course; but asked you for a recommendation as to accepting Price's resignation, in order that he might bring the matter to me, to whom, he told you, it must ultimately come, because I had considered the Glavis charges and had passed upon them.

Without further conference with the Secretary, and before making a report to him, you succeeded in making public, by having it read in the Senate a letter from you stating that you had sufficiently disciplined Messrs. Price and Shaw by reprimanding them, and that your recommendation would be that no further punishment was required, and this before that recommendation was submitted to the Secretary and me, whose power and duty it was to determine, upon Price's admissions as to his complicity, what action should be taken with respect to his resignation.

In order to understand the full purport of your letter in which you admit the complicity of Price and Shaw in the publications of the press, it should be said that the gravamen of the Glavis charges was that Secretary Ballinger and the others were all affected by a corrupt wish to patent 33 so-called Cunningham claims upon coal lands in Alaska; that the question whether these claims were fraudulent or not remained to be decided upon the evidence after both the United States and the claimants had been heard; that every patent as an executive act is completely within the jurisdiction of the President, to direct the withholding of it in order that he himself may examine the evidence as to the validity of the claim. These facts understood, the plain intimations in your letter are, first, that I had reached a wrong conclusion as to the good faith of Secretary Ballinger and the officers of the Land Office, although you and your subordinates had only seen the evidence of Glavis, the accuser, and had never seen or read the evidence of those accused or the records that they disclosed, which were submitted to me; and, second, that under these circumstances, without the exploitation by Messrs. Shaw and Price in the daily, weekly, and monthly press of the charges of Glavis, the administration, including the President and the officers of the Interior Department and Land Office, would have allowed certain fraudulent claims to be patented on coal lands in Alaska, although the matter had been specifically brought to the attention of the President by the Glavis charges. You solicited the opportunity to make such a declaration in Congress for the purpose of offsetting, if possible, in the public mind the President's decision in the Glavis case supported by the opinion of

the Attorney-General, after a full examination by both, of the evidence adduced by the accuser and the evidence on behalf of the accused, while the latter evidence you and your subordinates had never seen. You did this against the advice of the Secretary of Agriculture, without notifying him that you intended to do so, and without conferring with me at all. Your letter was in effect an improper appeal to Congress and the public to excuse in advance the guilt of your subordinates before I could act, and against my decision in the Glavis case before the whole evidence on which that was based could be considered. I should be glad to regard what has happened only as a personal reflection, so that I could pass it over and take no official cognizance of it. But other and higher considerations must govern me. When the people of the United States elected me President, they placed me in an office of the highest dignity and charged me with the duty of maintaining that dignity and proper respect for the office on the part of my subordinates. Moreover, if I were to pass over this matter in silence, it would be most demoralizing to the discipline of the executive branch of the Government.

By your own conduct you have destroyed your usefulness as a helpful subordinate of the Government, and it therefore now becomes my duty to direct the Secretary of Agriculture to remove you from your office as the Forester.

Very sincerely, yours,

WM. H. TAFT.

HON. GIFFORD PINCHOT, *The Forester*.

Mr. PEPPER. In that letter you are in effect charged with disrespect to the President and official insubordination. What have you to say as to the matter of disrespect?

Mr. PINCHOT. I have this to say: That the expression of an honest belief that the President acted under a misapprehension of the facts does not seem to my mind now, and did not then, to be disrespect.

Mr. PEPPER. And what about the suggestion that you showed a lack of confidence in the purpose of the President to take the defense of the people's interests into his own hands in this matter?

Mr. PINCHOT. The answer to that is a very simple one. If the President had signified that he intended to take the matter into his own hands, I would have been most happy to leave it there. As a matter of fact, his letter was an assurance that he would continue to leave it in Secretary Ballinger's hand, in that he expressed complete confidence, and I was therefore unable to meet the mind of the President on that point.

Mr. PEPPER. Now, about the matter of insubordination. Were you in fact insubordinate?

Mr. PINCHOT. I was not, but I have no desire to lay stress on the point that I was not insubordinate. I would have been insubordinate without a second's thought if insubordination had been required in order to bring before the public the facts that I thought ought to be brought before them. Furthermore—

Mr. PEPPER. But were you in fact insubordinate? Did you disobey an Executive order?

Mr. PINCHOT. As a matter of fact I was not insubordinate, but I have no desire as a matter of mere personal vindication to go into that question.

Mr. PEPPER. Why not?

Mr. PINCHOT. Because it does not seem to me to be very important whether I was insubordinate or not. And, furthermore, I should regret the necessity of bringing out a difference of opinion between Secretary Wilson and myself. I have served under the Secretary for about twelve years. All I have said about him in my various letters, in the letter that was read not long ago, expressed my real conviction in the matter, and it would be a painful thing under all

the circumstances to go into a controversy with him, and for that reason I have kept still.

Mr. PEPPER. Now, Mr. Pinchot, a question has been asked you by the chairman of the committee, speaking, I take it, for himself and not for the committee as a whole, which if answered necessarily involves entering upon the matter about which you have just expressed your purpose. What position do you desire to take in reference to the chairman's question?

Mr. PINCHOT. I desire to take this position, that if the question is made as a committee question, I shall be very glad indeed—I shall not be very glad indeed, but I shall yield to the desire of the committee and answer it in full; otherwise, I should prefer not to reply.

The CHAIRMAN. I think you ought to reply to the questions of members of the committee. They exercise the privilege of asking questions. That is a privilege that belongs to every member of the committee.

Senator PURCELL. Will that question involve the disclosure of any confidence between Mr. Pinchot and Secretary Wilson?

The CHAIRMAN. The Secretary is here, and has no objection.

Senator PURCELL. He is perfectly willing?

Secretary WILSON. None whatever.

Mr. GRAHAM. Will you please repeat the question.

The CHAIRMAN. Did you consult the Secretary of Agriculture before sending that letter?

Mr. PINCHOT. Is that a committee question?

The CHAIRMAN. Answer my question.

Mr. PINCHOT. I asked you if that is a committee question?

The CHAIRMAN. It is the same as any question asked by any other member of this committee. Any member of this committee has a right to ask a question.

Mr. PEPPER. I submit, Mr. Chairman, with the greatest respect, that, while it is far from my disposition to question the right of any member of the committee to ask a question, still I think it is the right of the witness to decline to answer any question that is not the question of the whole committee. If the whole committee desires, after considering the gravity of the matter, to resolve in favor of putting to the witness the question which the chairman has outlined, or any other question, I shall advise Mr. Pinchot to answer. I shall take the very serious responsibility of advising him not to answer if it is merely an individual question of a member.

The CHAIRMAN. This is my question. Do you object to answering it?

Mr. JAMES. Mr. Chairman, in order that it may be brought before the committee, I move that it is the sense of the committee that the question be answered.

Senator PURCELL. I second the motion.

The motion was agreed to.

Mr. PINCHOT. I shall proceed to answer you, Mr. Chairman. In order to do so, with the permission of the chairman, I shall run back over the circumstances which led to the—

Mr. VERTREES. I would suggest, if you will allow me, that you first answer the question and then make your explanations.

Senator PURCELL. Let him answer it in his own way.

The CHAIRMAN. Answer it first.

Mr. PINCHOT. I would like to have the stenographer repeat the question.

The stenographer read as follows:

The CHAIRMAN. Did you consult the Secretary of Agriculture before sending that letter?

The CHAIRMAN. Let the question read "about" sending the letter.

Mr. PINCHOT. The answer is "I did."

Mr. PEPPER. Will you now, Mr. Pinchot, give a narrative of the facts leading up to the precise point inquired of by the chairman?

Mr. PINCHOT. On December 28 Mr. Price consulted with Secretary Wilson, in accordance with Mr. Price's statement to me, as to whether or not it would relieve me from embarrassment if Mr. Price should resign or be removed. Secretary Wilson, under date of December 29, wrote me a letter on that subject, which I have in my hand, and which, with the permission of the committee, I will read. It is as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., December 29, 1909.

Mr. GIFFORD PINCHOT, *Forester*.

DEAR SIR: Mr. Overton W. Price, your associate, called on me last evening and proposed resigning from the Forest Service, after stating that he had assisted Mr. Glavis in his recent statement made since the President acted on the original Glavis charges. Naturally I was astonished at securing this and other information along the same line from Mr. Price.

The matter requires that I consult you as Chief of the Forest Service. Please let me have your recommendation in this matter.

Sincerely,

JAMES WILSON, *Secretary*.

Mr. PEPPER. What did you do upon receipt of that letter?

Mr. PINCHOT. I received a letter on the morning of the 30th on my return from New York—

The CHAIRMAN. From whom?

Mr. PINCHOT. From Secretary Wilson.

Mr. PEPPER. That is the letter that has just been read, and which with the permission of the committee we will offer in evidence.

The CHAIRMAN. It is admitted.

Mr. PINCHOT. On December 30, on my return from New York, Secretary Wilson came to where I lived, 1615 Rhode Island avenue, very kindly indeed, in order to make an address at a meeting of instructors in forestry which was to be held there. I met him as he came in; I was in the front hall. He entered the house at the same time that Professor Roth, of the University of Michigan, whom I then presented to him, although he had known him in years past, and I took Secretary Wilson at that time aside into a reception room and told him I had received his letter—I acknowledged the receipt of it thereby—and discussed with him briefly the situation. He then went upstairs and delivered his address to the meeting, came down again and we repeated in substance much of the conversation that had been had before, both of us expressing sympathy with Mr. Price in his mental attitude in the whole matter, his willingness to take the blame on his own shoulders in order to relieve me.

The next occurrence was on January 3—not January 4, as mentioned in the President's letter. I had received notice from the Secretary that he wanted to see me about certain promotions in the

Forest Service, and I went to his office on the morning of January 3. After we had discussed the promotions, I told him that Mr. Dolliver had asked me to write him on this subject. The Secretary made no objection to my doing so. We discussed at some length the right of Mr. Dolliver, as chairman of the Senate Committee on Agriculture, to get any information which it might be his desire to have from me, and before the end of the conversation the Secretary said, referring to the President's order 1142, I think it is, "You and I will have no trouble about that order; we will have no trouble about that order," or words to that effect. I believe from what I have just said, and I do not see how I could have done otherwise than believe, that I had the Secretary's consent to write it. At the same interview I described to the Secretary the situation as I understood with relation to the controversy between the Forestry Service and the Interior Department; that I had known that it was the intention of our opponents to magnify the thing that Price and Shaw had done by way of giving out information, and that it seemed to me that our only wise plan was to lay our hands on the table and admit at once all the facts, and in that way force the investigation to appear on the actual things that ought to be investigated. The Secretary disagreed with me as to the wisdom of that course, and advised strongly against it on the ground that it would concentrate the attention of the investigation upon the Forestry Service instead of upon the Interior Department. I told him then, as I recall it, that I was anxious that our reply to the charges should be made public at the same time as what I believed to be, and have since been confirmed in the belief, is Mr. Wickersham's brief in favor of Mr. Ballinger. We discussed the question as to how that could be done. The Secretary suggested at one time in the conversation that it might be possible for him to send the Price and Shaw report directly to the Vice-President, but later in the conversation decided that it would be necessary for him to lay it before the President.

So far as I can recall, Mr. Chairman, that is the substance of our conversation. I was convinced when I left the Secretary that morning that he was in favor of my effort to defend Price and Shaw, although probably not in favor of the method I desired to adopt of getting publicity at the same time that the other side got publicity, but I also left his office with the firm conviction that I had secured his permission to write the letter to Dolliver.

Mr. PEPPER. That was on January 3, as I understand it?

Mr. PINCHOT. That was on January 3.

Mr. PEPPER. And not on the 4th, as mentioned in the President's letter?

Mr. PINCHOT. Not on the 4th, as mentioned in the President's letter.

Mr. PEPPER. What thereafter did you do?

Mr. PINCHOT. I proceeded to complete the letter to Senator Dolliver. It was delivered to him on the morning of the 6th and was read that afternoon in the Senate, on the same day, about noon.

Mr. PEPPER. Prior or subsequent to the reading of the letter?

Mr. PINCHOT. Prior to the reading of the letter. The Price and Shaw report was signed in my presence, and delivered to me, and I took it at once to Secretary Wilson's office. He was at lunch.

Mr. PEPPER. Did you take with it any document addressed to the Secretary?

Mr. PINCHOT. I took with it a very short letter of transmittal.

Mr. PEPPER. Is the document that I hand to you now the letter in question?

Mr. PINCHOT. This is the letter of transmittal which I took to him.

Mr. PEPPER. Did you succeed in seeing the Secretary before the reading of the letter in the Senate?

Mr. PINCHOT. I did not, I judge.

Mr. PEPPER. What do you mean by that answer?

Mr. PINCHOT. I mean by that that I did not succeed in seeing the Secretary until half past 2 or 3 o'clock in the afternoon, and I believe the Dolliver letter was read before that time in the Senate.

Mr. PEPPER. Will you now read the letter which you hold in your hand, and which you say is the original letter that you took to the Secretary of Agriculture somewhere about noon on January 6, but succeeded in delivering to him only later in the afternoon?

Mr. PINCHOT. This is the letter, and I read it for the purposes which will afterwards appear—

The CHAIRMAN. But you gave that reprimand that you spoke of?

Mr. PINCHOT. I did.

The CHAIRMAN. You reprimanded him?

Mr. PINCHOT. I did.

Mr. PEPPER. Mr. Pinchot, what was actually done with the document that you now hold in your hand?

Mr. PINCHOT. When the Secretary read it he asked me what the final clause referred to.

Mr. PEPPER. And when you speak of that final clause will you read it again?

Mr. PINCHOT. The final clause is:

In reply to a request from the chairman of the Senate Committee on Agriculture and Forestry, I addressed to him a letter, of which I transmit a copy for your information

The Secretary asked me to what that clause referred.

Mr. PEPPER. What did you reply?

Mr. PINCHOT. I replied that it referred to the letter I had delivered to him; I was going to write Senator Dolliver. The Secretary thereupon asked me what was the use of referring to that—to the Dolliver letter—in my letter of transmittal. I said I was perfectly willing to strike it out if he preferred, and I took a pencil there on his desk and struck it out.

Mr. PEPPER. Do the concluding lines of that letter show a running pencil mark through them?

Mr. PINCHOT. This is the letter with the clause stricken out:

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, January 6, 1910.

HON. JAMES WILSON,
Secretary of Agriculture.

SIR: In accordance with your direction I transmit herewith a report made to me by O. W. Price and A. C. Shaw, of the Forest Service, in reply to an official request addressed to them by me on December 24, 1909. The recommendation you instructed me to submit upon the state of facts shown in this report I have the honor to make, as follows:

In view of the reprimand already given, the emergency by which Price and Shaw were confronted, the purity of their motives, and the results which they accomplished, I recommend that no further action be taken in their case.

~~In reply to a request from the chairman of the Senate Committee on Agriculture and Forestry, I addressed to him a letter of which I transmit a copy for your information.~~

Very respectfully,

GIFFORD PINCHOT, *Forester.*

Mr. PEPPER. What was thereupon done?

Mr. PINCHOT. Thereupon I said that I would take the letter back and have it rewritten. He said in substance, "Why not have it rewritten in my office—rewritten here?" I replied that it would then be upon the letter head of the Secretary of Agriculture instead of upon the letter head of the Forester. The Secretary replied in substance that that would make no difference, and at his direction I took this letter into Mr. Reese, his private stenographer, in the next room, and had it recopied with the omission of the clause he had struck out, brought it back to his room and signed it on his table, so that the letter of transmittal which finally went with the report is not upon the letter head of the Forestry Service, but upon that of the Secretary of Agriculture.

Mr. PEPPER. I offer in evidence the document which the witness has described.

The CHAIRMAN. It will be admitted.

(The letter appears in a former part of to-day's proceedings.)

The CHAIRMAN. What was the form of the reprimand that you administered to Price and Shaw?

Mr. PINCHOT. I do not recollect the exact words, but I used the words "reprimand."

The CHAIRMAN. Was it a printed or a written reprimand?

Mr. PINCHOT. It was a verbal reprimand. I remember that the word reprimand was used.

Mr. PEPPER. Mr. Pinchot, the testimony that you have given was elicited by the question as to whether or not you had been, or understood yourself to be, guilty of official insubordination. Am I correct?

Mr. PINCHOT. It was, as I understand it.

Mr. PEPPER. Your answer to that question is what?

Mr. PINCHOT. It is that I was not so guilty. If I may correct that answer so as to make it perfectly clear—I was not guilty of official insubordination.

Mr. DENBY. Mr. Pinchot, is the Executive Order No. 1142 the President's order against the giving out of information?

Mr. PINCHOT. It exists here; yes, sir.

Mr. DENBY. It is that well-known order against the giving out of information?

Mr. PINCHOT. Yes, sir.

Mr. JAMES. What is the date of that order?

Mr. PINCHOT. I have a copy of it here.

Mr. OLMSTED. You spoke in your testimony to the effect that the Secretary of Agriculture said, "We will have no trouble about that order."

Mr. PINCHOT. Yes, sir; that is the order. It is the order of November 29, 1909, and it might be well to —

Mr. PEPPER. I think it will be well to read it if the committee will permit, and we will ask that it be put in evidence.

The CHAIRMAN. Is it necessary to read it? It can be put into the record without reading.

Mr. JAMES. I do not care to have it read. I just want it in the record.

Mr. PEPPER. It is very brief.

Senator PURCELL. Let it be read.

The CHAIRMAN. Very well.

Mr. PINCHOT. This is the copy transmitted to the chiefs by the United States Department of Agriculture, and is as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,

OFFICE OF THE SECRETARY,

Washington, D. C., November 29, 1909.

Circular letter.]

To all chiefs of bureaus, offices, divisions, and services, and to all their subordinates in the Department of Agriculture:

The President of the United States has issued an order, of which the following is a copy:

EXECUTIVE ORDER.

It is hereby ordered that no bureau, office, or division chief, or subordinate in any department of the Government, and no officer of the Army or Navy or Marine Corps stationed in Washington, shall apply to either House of Congress, or to any committee of either House of Congress, or to any Member of Congress, for legislation, or for appropriations, or for congressional action of any kind, except with the consent and knowledge of the head of the department; nor shall any such person respond to any request for information from either House of Congress, or any committee of either House of Congress, or any Member of Congress, except through, or as authorized by, the head of his department.

WM. H. TAFT.

THE WHITE HOUSE, November 26, 1909.

[No. 1142.]

Your close attention to and strict observance of the above executive order is hereby enjoined upon each and every one in the Department of Agriculture.

JAMES WILSON, *Secretary of Agriculture*.

Mr. PEPPER. Referring now to Mr. Denby's question, that is the order which you understood to be the subject of reference in the conversation between yourself and the Secretary of Agriculture?

Mr. PINCHOT. It is.

Mr. PEPPER. Now, Mr. Pinchot, just to summarize a matter which has covered a good deal of space in the examination, what do you say, in conclusion, respecting the charge of disrespect to the President and of official insubordination?

Mr. PINCHOT. It is, briefly, that ten minutes' conversation between the President and myself would, I think, have been abundantly sufficient to demonstrate to his mind the truth of the facts which I now assert, that I was not guilty of disrespect, certainly not intentionally so, and not guilty of insubordination; in other words, I believe fully that if I had been accorded a hearing by the President upon this matter, as would not have been unusual under all the circumstances of our relations, it would have been easily possible for me to have set before him the facts in such a way as to have avoided the necessity under which he believed himself to be of removing me from the public service.

Mr. PEPPER. The witness is yours, Mr. Vertrees.

The CHAIRMAN. Mr. Pepper and Mr. Vertrees, I desire to say that Secretary Wilson is here now and would like to be heard in reference

to this matter, which has come up recently, if you will be kind enough to defer your cross-examination.

Mr. VERTREES. Certainly, sir.

TESTIMONY OF HON. JAMES WILSON.

JAMES WILSON, having been first duly sworn by the chairman, testified as follows:

The CHAIRMAN. Mr. Vertrees, will you please examine the witness?

Mr. VERTREES. Mr. Secretary, you have been present and heard the evidence of Mr. Pinchot?

Secretary WILSON. Yes, sir.

Mr. VERTREES. Particularly that part relating to these conversations with you and directions given by you?

Secretary WILSON. Yes, sir; I have heard it.

Mr. VERTREES. Having heard it, now I will ask you in your own way to make such statement as you desire to make with reference thereto.

Secretary WILSON. Very well, Mr. Chairman. Some things Mr. Pinchot has testified to are correct—a great many of them—and some other things are not correct. He never got my consent to send that letter to the Senate. There are two things in it that would have made that consent impossible. He put himself in the position of a superior court to review the mental processes of the President in passing upon the Glavis matter; he also assumed what authority I might have with regard to disciplining an officer who had confessed himself at very serious fault. Now, with regard to what conversation which he said we had on the 3d. There is no use of making any point on the date; it was probably the 3d if he says it was; let it go as the 3d. We did have a conversation. Ever since the President issued that inhibition against officials giving information to those mentioned in the order, the chiefs and others have been coming to me. Nobody ever came, as Mr. Pinchot intimates that he came, to get any general order he pleased to send to anybody anything he pleased. They came as he came, and he came as the others came, and they come every day, saying so and so wants information on such a point. What does he want? Oh, it is a matter pertaining to the department. Very well; let him have it. I do not remember refusing permission to any official of the department to give information to a Member of Congress or a committee of Congress.

Now, Mr. Pinchot did not, in that meeting on the 3d, as he fixes the date, tell me that he was going to send a letter of that kind passing upon the action of the President, dealing with the President's mind, as he tells us here, a psychological question. He wanted to send something to Senator Dolliver with regard to departmental work, and to that I would have had no more objection than I would have had to anybody else asking anything; but when he said at that time that it had given him the length of assuming the President's position with regard to whether he settled the Glavis case right or wrong, or that he came and told me he was going to pass upon the confession of Mr. Price—up to that time I had not heard of the Shaw business; it was all new to me. They had kept this thing all from me up to that date. It was intimated by Mr. Pinchot that he was going to take my position or the President's position because

I had told him that I wanted him to answer my letter as soon as he could, so that I could consider it and take it to the President if necessary, because the President had a right to see those things.

The CHAIRMAN. And he never answered the letter?

Secretary WILSON. No. He kept telling us he would have it ready in a day or two. Now, what did he bring me? That letter that he sent to the Senate would have been somewhat in conformity. What did he bring me? Five days before I had sent him that letter he had set Mr. Price and Mr. Shaw to work to prepare a report, for some purpose of which I knew nothing. It was Mr. Price's and Mr. Shaw's opinion of their own work. He sent me that. He gave me no information at all. Anything he gave me in that report he got from Mr. Shaw and Mr. Price. I had had it from Mr. Price on the evening of the 28th. Mr. Price and Mr. Pinchot had possession of it for two months. It gave me no knowledge at all. So Mr. Price told me. And I expressed surprise and astonishment at what he said I said, "Did Mr. Pinchot know what you were doing?" "Yes." "Since when has he known you did it?" "Oh, a couple of months." Now, what was the use of sending that thing to me? Mr. Pinchot had changed his mind about that.

Now, those two things, Mr. Chairman, that he says in that letter to Dolliver that was read in the Senate with regard to the President of the United States—what he said with regard to his settling that case and advising against the reopening of it because he had reprimanded those people—would have precluded me, of course, from agreeing; not only from agreeing, but I would have very seriously and very emphatically told him I could not be a party to anything of that kind.

Now, that is about all I have to say in regard to this whole matter. I know nothing about what you are considering here. The thing never came to me at all until Mr. Price came to me and began telling the reasons why he had been doing these things. This was the first time I had ever known anything about it, except, possibly, something I may have seen in the newspapers.

Now, Mr. Pinchot evidently wants you to believe that because I raised no serious objection to the writing of a letter to Senator Dolliver with regard to departmental work, that was the natural thing to do. Senator Dolliver is the chairman of the Committee on Agriculture of the Senate and has a good deal of right to inquire of us about any matter. But this letter that did go, Mr. Chairman, he had no authority from me to write. I never heard of it until I read it in the Congressional Record of the 6th of January, I think it was. I never heard anything about any of those propositions before.

I think that is all I have got to say. One point is, Did he have my consent to write that letter that was read in the Senate on the 6th? He did not. I never saw it and never heard of it.

The CHAIRMAN. Any further questions, Mr. Vertrees?

Mr. VERTREES. Nothing further, thank you.

The CHAIRMAN. Any questions, Mr. Pepper?

Mr. PEPPER. May I have the privilege, Mr. Secretary, of asking a question or two of you?

Secretary WILSON. I should be very pleased.

Mr. PEPPER. If I understand it, sir, on the 29th of December you wrote the letter to the Forester which has been produced here.

Secretary WILSON. I think that is the correct date.

Mr. PEPPER. And it is a fact, is it not, that the receipt of that letter was acknowledged in person by the Forester to you on the 30th of December?

Secretary WILSON. Yes; I happened to meet him in his own house.

Mr. PEPPER. It is a fact, is it not, that he subsequently, to wit, on the 6th, wrote you a letter, the substance of which has been stated here, transmitting the report theretofore made to him by Messrs. Price and Shaw as his exhibits, stating that a reprimand had been given, but recommending to you, sir, that no further discipline be meted out to them—that is a fact, is it not?

Secretary WILSON. I think that is correct. You mean what he said to me and brought to me after he had his letter read in the Senate?

Mr. PEPPER. I just mean, if I may be permitted to extend upon the question as I ask it, that on the 6th of January he did deliver it to you—

Secretary WILSON. Oh, he did.

Mr. PEPPER. A letter of transmittal?

Secretary WILSON. He delivered to me the report of Price and Shaw to him.

Mr. PEPPER. And, with great respect, may I ask, sir, whether you wish to be understood as saying that Mr. Pinchot in any way sought to take out of your jurisdiction the ultimate decision as to the discipline which should be meted out to these gentlemen alleged to be insubordinate?

Secretary WILSON. The matter was never discussed between us.

Mr. PEPPER. Is it not true, sir, that the letter of transmittal is itself a recommendation to the Secretary of Agriculture of the action advised by the Forester?

Secretary WILSON. It was all I have got.

Mr. PEPPER. It is the fact, however, that there was no effort on the Forester's part to take from the Secretary of Agriculture the ultimate decision of that disciplinary matter?

Secretary WILSON. Well, it is not very important, my friend, I would have forgiven him for that.

Mr. PEPPER. But I assume, sir, that it is not a question of forgiveness, but a question of history as to what happened; and the fact is as I have stated it, is it not?

Secretary WILSON. Oh, sure.

Mr. PEPPER. With regard to the letter to Senator Dolliver, if I correctly understand it, when he obtained your acquiescence to the writing of such a letter to Senator Dolliver, you did not then understand precisely the character of the letter that he was going to write?

Secretary WILSON. I am obliged to you for bringing that to my recollection. We had quite a vigorous and lengthy discussion about that. I protested against it. I tried to show him that he was doing a foolish thing to try to get anything of that kind into the Senate. I did advise him that it would be better to send all these things to the President.

Mr. Pinchot has testified that he thought if he had had an opportunity to explain a little to the President he could have made all things clear. He shut the door between him and the President when he sent that thing.

Mr. PEPPER. Maybe so. But it is a fact, is it not, that the thing that Mr. Pinchot has testified to took place at that interview between he and you?

Secretary WILSON. No, sir; no, sir. Where he says that I told him there would be no trouble with me along that line, that is all new to me, all new to me. My recollection is pretty keen about what happened then.

Mr. PEPPER. Mr. Secretary, isn't it the fact that a phrase substantially like that was used by you to Mr. Pinchot at that interview?

Secretary WILSON. Well, I do not remember using that phrase. I do not say now that I refused to concur in Mr. Pinchot's sending a letter with regard to departmental work to Mr. Dolliver. I do not mean to be understood as saying that.

Mr. PEPPER. Of course not, sir.

Secretary WILSON. But, with regard to these phrases, I think they are his and not mine.

Mr. PEPPER. And with regard to the action that he took in pursuance of what he understood to be your acquiescence in his course, you wish to say that you did not understand precisely what he was going to do. Is that so?

Secretary WILSON. I understand exactly that he was going to write, as he said, to Senator Dolliver, with regard to departmental matters. If he had said that he was going to write the letter that he did write, I guess he never would have written it, perhaps.

Mr. PEPPER. That is quite likely. I have no further questions.

Secretary WILSON. I have nothing more to say, unless some gentleman desires to ask me some questions.

Senator FLETCHER. Do you recall the original letter that has been offered here? It contains a paragraph with reference to the letter to Senator Dolliver, and Mr. Pinchot has testified that at your suggestion that was eliminated and he ran his pencil through it and rewrote the letter in your office. Do you recall that?

Secretary WILSON. I do not recall it, but I do not question it; it may have been so.

Senator FLETCHER. Well, accompanying that communication from him was a copy of the letter to Senator Dolliver.

The CHAIRMAN. Oh, no.

Secretary WILSON. Oh, no. I never saw that letter until I read it in the Congressional Record.

Senator FLETCHER. The paragraph refers to a letter that he had written to Senator Dolliver.

Secretary WILSON. No; I never saw that letter, that one to Senator Dolliver.

Senator FLETCHER. There was no discussion of the letter at that time when the report of Price was presented?

Secretary WILSON. I do not recall anything, but it may have been.

Mr. JAMES. Have you the original letter written to you giving a report about Price and Shaw?

Secretary WILSON. I think I have it here; but you probably have it in your files.

Mr. JAMES. Was that letter written upon the letter head of the Agricultural Department or upon the letter head of the Department of Forestry?

Secretary WILSON. I think it was written on the letter head of the Forestry Bureau.

The CHAIRMAN. That letter of transmittal?

Secretary WILSON. I have some of those things here.

The CHAIRMAN. The one inclosing the report of Mr. Price and Mr. Shaw—not the letter to Senator Dolliver.

Senator FLETCHER. The one that contains a reference to the letter to Senator Dolliver.

Mr. JAMES. Do you remember, Mr. Secretary—

Secretary WILSON. That is the letter [indicating]. It is written on the letter head of the Department of Agriculture. I had never noticed that before.

Mr. JAMES. Do you remember now whether or not when he brought this letter into your office there and you asked him what those three lines meant, do you recall whether or not he went into your office and dictated to your stenographer a letter there upon that letter head?

Secretary WILSON. Will somebody read those three lines to me; they may recall it to my recollection.

Senator FLETCHER. I want to get the letter to recall it to your mind, but I think the stenographer took it upstairs.

Mr. JAMES. The point I want to get at, Mr. Secretary, is this: Mr. Pinchot says he brought to you this letter.

Secretary WILSON. He did.

Mr. JAMES. And then you asked him what the three lines meant, and he explained them to you, and you asked him to write another letter, leaving those lines out.

Secretary WILSON. That may be.

Mr. JAMES. You say that may be?

Secretary WILSON. Yes, sir.

Mr. JAMES. Now, then—

Secretary WILSON. And that may not be.

Mr. JAMES. It may not be?

Secretary WILSON. It may be or it may not be.

Mr. JAMES. You do not want to commit yourself?

Secretary WILSON. I do not want to say anything that I do not remember.

Mr. JAMES. So you just say that you do not remember about it?

Secretary WILSON. Yes, sir.

Mr. JAMES. Do you remember this, that he went into your office there and dictated to your stenographer on a letter head of your office, practically the same letter, with the three lines left off? Do you remember anything about that?

Secretary WILSON. Practically this letter?

Mr. JAMES. Yes.

Secretary WILSON. Well now, it may have been that he had that done there; that may have been. It is the first time that I ever heard of those three lines that have been spoken about having been rewritten, but I do not think the whole letter was rewritten there; but I can not say it was not.

Mr. JAMES. What was the name of your stenographer?

Secretary WILSON. The name of my stenographer is Mr. Reese; I have forgotten his first name.

Mr. JAMES. He is in the city here, isn't he?

Secretary WILSON. Yes, sir.

Mr. JAMES. So you just do not remember about that?

Secretary WILSON. I will tell you why I do not remember about that. I left the department on other business immediately I got the letter from Mr. Pinchot.

Senator FLETCHER. Mr. Secretary, what particular statement of Mr. Pinchot's do you claim he is either mistaken in or is untrue?

Secretary WILSON. I have never said that he was not true; I said he was mistaken.

Senator FLETCHER. Well, mistaken. Now, what particular statement of Mr. Pinchot's do you claim he is mistaken in?

Secretary WILSON. In the statement in which he intimates that I had any knowledge of the letter that was read in the Senate.

Senator FLETCHER. That is, his intimation that you had knowledge of the contents of that letter?

Secretary WILSON. Of the things that were in that letter, and particularly what he said about the President.

Senator FLETCHER. The letter was talked over to some extent, was it not?

Secretary WILSON. Never once. Never.

Senator FLETCHER. Was his intention to write such a letter—was that talked over?

Secretary WILSON. His intention was to write to Senator Dolliver pertaining to matters of the department, and he got the same permission that I would have given to any other official of the department.

Senator FLETCHER. But what you mean to be understood as saying is that you do not remember talking over the contents of that letter with him.

Secretary WILSON. I would hardly have agreed with him—he first insulted the President of the United States, and then assumed my authority in disciplining an official.

Senator FLETCHER. Will you please tell us what you did think he was going to say to Senator Dolliver in that letter?

Secretary WILSON. Something about departmental work.

Senator FLETCHER. Of what nature?

Secretary WILSON. Of whatever nature it might be, regarding departmental work.

Senator FLETCHER. Pertaining to his dispute with the Secretary of the Interior?

Secretary WILSON. Oh, no; there wasn't much departmental work then that had ever come to me of that nature.

Senator FLETCHER. Can you tell us what?

Secretary WILSON. He may have had things in his mind that I did not have, because he was up in this business and I was not.

Senator FLETCHER. So you do not mean to be understood as saying that you knew or had any intimation as to what the contents of the letter would be to Senator Dolliver?

Secretary WILSON. Nothing further than he wanted to write to Senator Dolliver something that he would get into the Congressional Record and before the country simultaneously with the President's report.

Mr. PEPPER. And that is what you protested against?

Senator FLETCHER. The President's report on what, Mr. Secretary?

Secretary WILSON. On whatever the President's report was at that particular time.

Senator FLETCHER. Pertaining to what?

Secretary WILSON. Pertaining to conservation, perhaps.

Senator FLETCHER. Any disputes or anything of that kind?

Secretary WILSON. No; I do not remember anything of that kind.

Senator FLETCHER. Is there any other statement upon which you dispute Mr. Pinchot, excepting the one which you have just stated?

Secretary WILSON. The only question in my mind is whether I had knowledge of the letter that Mr. Pinchot was to send to Senator Dolliver to be read in the Senate, and where he got my consent. That is the point that is in my mind; and I deny that I had knowledge of what was sent or that I had ever given consent to send it.

Mr. PEPPER. Mr. Secretary, if I may ask you again, it is a fact that a discussion took place respecting something that he proposed to send to Senator Dolliver, against which you thought it proper to protest. Isn't that the fact?

Secretary WILSON. I advised against it; I earnestly advised against the method of doing anything of that kind.

Mr. PEPPER. And was the thing that you advised against the writing of a formal letter about departmental matters, and not a weighty communication such as you have—

Secretary WILSON. No; it was the method of getting it before the Senate.

Mr. PEPPER. But was the thing that you protested against the writing of a letter about mere formal departmental matters or something else?

Secretary WILSON. It was the method of getting it before the Senate and the country, to blanket the President's message that was expected to come about the same time.

Mr. PEPPER. So that the letter against which you protested and which Mr. Pinchot proposed to write to Senator Dolliver was a letter of the character that you have described?

Secretary WILSON. Well, of course, now, there was not any discussion going into what the character of the letter was to be, except it was to be written to the chairman of the Committee on Agriculture with regard to departmental matters.

Mr. PEPPER. And in such a letter as you understood was to be written, you did acquiesce in its sending?

Secretary WILSON. Oh, no. State that question again. I want to be careful right here.

Mr. PEPPER. That such a letter as you understood Mr. Pinchot was going to write, you did acquiesce in his sending to the Senator in response to his request?

Secretary WILSON. I do not take the position here that I did not. I take the position here that I earnestly advised against that method of bringing a letter before the Senate. Because if he had asked me, and I had made a note of it, or he had made a note of it, that he was going to communicate with the chairman of the Committee on Agriculture of the Senate regarding departmental matters, I would have said there can not be any objection to that, because I am giving permission to do that almost every day.

Is there anything further?

Mr. PEPPER. I am simply not sure whether it is any clearer to the committee than it is to me, but it is not clear to me whether or not

you did acquiesce in his sending a letter to Senator Dolliver, which letter Mr. Pinchot at that time proposed to send.

Secretary WILSON. He did not propose at any time to send the letter he did send.

Mr. PEPPER. Well, if he did not propose to send such a letter as he did send, what was it that you protested against?

Secretary WILSON. I protested, as I have stated to you repeatedly, against the method of getting a communication before the Senate in that way.

Mr. PEPPER. But you had no objection to sending to the Senate in that way a communication relating to departmental matters, had you?

Secretary WILSON. None at all. That way? No. I beg your pardon. Now, let us get the thing clear.

Mr. PEPPER. Yes.

Secretary WILSON. I had objection to sending anything to blanket the communication of the President of the United States—I had objection to that.

Mr. PEPPER. What was there that led you to suppose that the letter Mr. Pinchot proposed to send was a letter of that character?

Secretary WILSON. It was not the character of the letter, it was the method of getting it there, that I advised against. I took it for granted that what he would send would be in regard simply to departmental matters.

Mr. PEPPER. Why should you have supposed then that a letter in regard to simple departmental matters would have the effect of blanketing the President of the United States?

Secretary WILSON. I do not know why. I do not know why. That is his statement, not mine. That is what he proposed.

Mr. JAMES. Did you have more than one conversation with him about sending this communication to Senator Dolliver?

Secretary WILSON. Well, now, he said one. I am not going to contradict him where I do not have to. He said one. Mr. Pinchot has expressed the pain that might come from this situation here. I entertain the same painful sentiments, but the truth is the truth.

Mr. JAMES. But the point I am asking you about is this: You say you do not recall but one conversation with him?

Secretary WILSON. Why, yes—I saw him—I had an exceedingly brief conversation with Mr. Pinchot in his own house at that time. I went up to address those forester educators.

Mr. GRAHAM. Mr. Secretary, at the time you had the conversation with Mr. Pinchot, and when you say you objected to his sending anything that would operate as a blanket on the President's message, did you then know what the President's message was about?

Secretary WILSON. I did not. I am very frank to say I did not. I knew then, likely, but I do not remember now which one it was.

Mr. GRAHAM. Did you know, even in a general way, the subject-matter of that message?

Secretary WILSON. I think it was along conservation lines. Now, that is my recollection, but I have an infinity of things to think about in my department, and I might easily forget.

Mr. GRAHAM. When you spoke of blanketing the President's message, did you have in mind that the communication of Mr. Pinchot was along the same or similar lines as the President's message?

Secretary WILSON. I got the impression that it was, Senator, that it would attract the attention of the country simultaneously with the President's message.

Mr. GRAHAM. And that it would be along if not the same lines at least parallel lines?

Secretary WILSON. Somewhat, perhaps. No; I had no impression there. Do not put words into my mouth. I had no impression about that.

Mr. GRAHAM. How would a letter from Mr. Pinchot about a matter entirely different from a subject of the President's message have the effect of blanketing the President's message?

Secretary WILSON. That was not my proposition. It was his. What he thought about it I do not know.

Mr. GRAHAM. I know; but in your mind how did it occur to you that a letter from him about a subject entirely foreign to the President's message would have the effect of acting as a blanket message.

Secretary WILSON. I do not know whether it would be foreign or not.

Mr. GRAHAM. And yet you feared it would act as a blanket to the President's message.

Secretary WILSON. I advised against the method of getting it into the record. It was the method I advised against.

Mr. JAMES. Did Mr. Pinchot ever talk to you about the Cunningham claims or explain to you the situation with reference to them?

Secretary WILSON. No. All I know about these things I heard from Mr. Price when he came to confess to me that he had behaved in such a way that he felt like resigning. In fact, I had not followed these things as you do. I follow things to follow.

(The witness was thereupon excused.)

The CHAIRMAN. We will now resume the cross-examination of Mr. Pinchot.

TESTIMONY OF MR. GIFFORD PINCHOT—Resumed.

Mr. VERTREES. Mr. Pinchot, I believe your residence is in Washington.

Mr. PINCHOT. I have lived here for several years.

Mr. VERTREES. What is your age, Mr. Pinchot?

Mr. PINCHOT. Forty-four or forty-five.

Mr. VERTREES. How long were you in the public service?

Mr. PINCHOT. I was in the Department of Agriculture from July 1, 1898, until January 7, 1910.

Mr. VERTREES. You were then discharged?

Mr. PINCHOT. I was then dismissed, as has been testified.

Mr. VERTREES. Dismissed, if you prefer that word to discharged. So that your position here is that of a dismissed public servant?

Mr. PINCHOT. It is.

Mr. VERTREES. And if I understood you correctly, you were wrongfully dismissed; in your own mind you have considered that you had not been insubordinate and had not done anything wrong?

Mr. PINCHOT. In my own mind I believe that my action and the action that I took was for the public benefit, and should have been sustained rather than reprobated.

Mr. VERTREES. Now, then, to get it my way, you have felt that injustice was done you in that respect?

Mr. PINCHOT. I have not been greatly concerned as to whether injustice was done me or not.

Mr. VERTREES. I am not asking you about your concern, or how much concern you have. Mr. PINCHOT. I am on the state of your mind whether justice or injustice was done, or whether it was large or small—do you not feel that you were not insubordinate and that injustice has been done?

Mr. PINCHOT. I was not insubordinate, and to that extent injustice was done me.

Mr. VERTREES. You say "to that extent." Had you done anything else wrong?

Mr. PINCHOT. Do you think I am here to admit that, Mr. Vertrees?

Mr. VERTREES. I just ask you that in view of your answer "to that extent."

Now, Mr. Pinchot, you have come here and made some very serious accusations against the Secretary of the Interior, and I want to get at the frame of mind of the man who has made those accusations. You have seen fit here in a statement made before you were sworn, and which you decline to be sworn to, to make these accusations.

Mr. PEPPER. May I interrupt you?

Mr. VERTREES. Certainly, sir.

Mr. PEPPER. Mr. Chairman, without the least desire in the world to interrupt counsel, may I ask through you, sir, for anything upon the record which justifies the suggestion that Mr. Pinchot made any statement of fact here which he declined to swear to?

The CHAIRMAN. I think I asked him if he wanted to swear to the statement, and he declined.

Mr. GRAHAM. The record does not show it.

Mr. PEPPER. Mr. Chairman, do I understand, sir, that when a litigant, or a claimant, or a party appears before any judicial tribunal to make a statement of what he expects to prove that he is to be called to account by the tribunal or by counsel because he does not swear to a statement of his proposed proof? I ask, sir, whether—

The CHAIRMAN. He was not called to account. I simply asked him if he desired to be sworn to the statement, and he said not, and I went on and took his oath. That is all.

Mr. GRAHAM. Mr. Chairman, let me give you my recollection. I think the chairman is in error when he says that the witness made any reply to his remark. I was within 3 or 4 feet of him, and I am reasonably sure the witness paid no attention to the chairman's question.

Senator SUTHERLAND. My recollection of what occurred is this, although it does not make very much difference: I remember Mr. Pinchot beginning by saying that he desired to make this preliminary statement before being sworn. Either before he finished his statement or at the time he began to read it the chairman asked him if he desired to be sworn, and he shook his head.

The CHAIRMAN. Those are the facts. He shook his head.

Mr. PINCHOT. I shook my head.

Senator FLETCHER. The witness made a statement opening the story and said he proposed to bring witnesses to establish the truth

of what he was setting forth in this statement; a portion of it he knew himself, other portions he expected to establish by other witnesses. He was not expected to swear to that statement. It would have been an unheard of thing, a thing never done before in any court or any tribunal or body or commission or committee. And it is unfair to seek to have it implied that anything in the statement made was not true, because the witness did not swear to it when it was made.

Mr. GRAHAM. I remember it very distinctly.

Senator SUTHERLAND. I do not think there is any occasion for anybody losing his temper here. There seems to be some dispute as to what actually occurred. I have stated my recollection of what occurred, and Mr. Pinchot agrees with my statement, as I understand it.

Mr. PINCHOT. Perfectly.

Senator SUTHERLAND. Am I correct, Mr. Pinchot?

Mr. PINCHOT. Yes; you are correct in this way—

Mr. JAMES. Mr. Pinchot ought not to be called upon to swear to a statement he was making to the committee about what he expected to prove. That is not customary in court. It was not required of Mr. Glavis or of Mr. Brandeis who stated what Mr. Glavis expected to prove.

Then I called the attention, Mr. Chairman, to the fact that in this statement he read, he expressed the belief that this committee would make certain findings. Certainly he would not want to hazard on oath what the committee was going to do.

Mr. VERTREES. The criticisms of the committee, Mr. Chairman, I think make it necessary that I should explain why I asked that question, and insist upon it. Now, I concede the right, usually done by counsel, to state what is expected to be proved. And if Mr. Pinchot had contented himself with a statement of what he expected to prove the case would have been within the rule which has been suggested by some of the committee. But he not only stated that, but he went a good deal further. Among other things he stated this: "I believed then, and I believe now"—

The CHAIRMAN. What page are you reading from?

Mr. BRANDEIS. Page 1143 of the record [reading]:

I believed then, as I believe now, that he told the truth. I am convinced now, as I was when he came to me, that Glavis is a faithful public servant, and that the facts which he presented prove that Mr. Ballinger has been unfaithful to his trust as a servant of the people and as the guardian of public property of enormous value.

What happened is, that he took advantage of the circumstances of that situation, ostensibly to say what he intended to prove, but in reality to make an assault upon the Secretary of the Interior.

Mr. VERTREES. That is not any statement of what he expects to prove—those things that I have read to you.

Senator FLETCHER. He has sworn to those things under oath.

Mr. VERTREES. He has not sworn to them.

Senator FLETCHER. He has not refused to do it in this trial. He has sworn to those identical things.

Mr. VERTREES. We will see what he refused to swear to.

Senator FLETCHER. He has sworn to them.

Mr. GRAHAM. Let me ask you, as a lawyer, if you think it was a proper thing to ask him to swear to an opening statement?

Mr. VERTREES. I say as a lawyer, if you wish to put the question to me in that way, that if Mr. Pinchot's statement had been a statement of what he expected to prove, and to show by evidence, no—I state that. But I say that when Mr. Pinchot's statement went further than that and entered into the field of malicious accusations, inferences, beliefs, and false statements, I say, yes. The Senator has said that he has sworn to it.

Mr. GRAHAM. You think he ought to be asked to swear to those accusations which you say are malicious?

Mr. VERTREES. I say it was such an extraordinary proceeding to preface his testimony with such a statement that, in my opinion—I submit it with all deference—it certainly is an unusual thing, and an unprecedented thing for a witness to do.

Mr. JAMES. You made no objection then, did you, to his making that statement?

Mr. VERTREES. No, sir.

Mr. JAMES. Why did you not make it then, if it was so much out of order, and why do you wait until now?

Mr. VERTREES. If you want my opinion, I will say that everything was out of order. Has not the door been opened?

Mr. JAMES. If that was so manifestly wrong that he ought to have sworn to it, and not let it go by without declaring under oath that he believed it, why did you not make objection to it then?

Mr. VERTREES. I expected to bring him down to the point where he would swear to it before I got through, and I did not think I was called upon then to make the objection.

Senator FLINT. I suggest that we proceed on the line that this was a mere statement of Mr. Pinchot of what he expected to prove, and that the examination be limited to these matters which he has testified to.

Mr. JAMES. I second that suggestion.

Senator FLETCHER. This is no examination at all.

Mr. VERTREES. I wanted to ask him further if it was not a written statement given out by him to the public before he took the stand—given by him to the press before he took the stand to read it?

The CHAIRMAN. Now proceed and ask the question.

Mr. VERTREES. We will digress a little from the line that we were on and get to this point. Is it not a fact that the statement which appears at page 1143 in your evidence—you have it now?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. I will ask you if that statement was not a written statement?

Mr. PINCHOT. It was.

Mr. VERTREES. Read by you to the committee?

Mr. PINCHOT. It was.

Mr. VERTREES. As a preliminary statement?

Mr. PINCHOT. It was.

Mr. VERTREES. And I will ask you if copies of that were not placed by you in the hands of the newspaper people for publication before you came here as a witness?

Mr. PINCHOT. I caused copies of that statement to be distributed, yes, sir.

Mr. VERTREES. I am not on the matter of whether you did it with your own hands or through the hands of others. The point is that you directed it and had it done.

Mr. PINCHOT. I did.

Mr. VERTREES. That statement, containing these accusations which I have just read to the committee. Now we understand it. Now, after you read that statement is it not true that the chairman of this committee asked you if you desired to be sworn to that statement and you shook your head negatively?

Mr. PINCHOT. I did; I shook my head.

Mr. VERTREES. You mean you gave a negative shake, and not an affirmative shake.

Mr. PINCHOT. I gave a negative shake.

Mr. VERTREES. Now we understand it. I will recur to the point I was asking you about—getting at the frame of your mind in this matter. I asked you if you were not here feeling that you had been discharged wrongfully and unjustifiably; that you had done no wrong yourself?

Mr. PINCHOT. Mr. Vertrees, that question, if I answer it yes, will be taken, as I foresee, to indicate that I have come here in a malicious frame of mind caused by my dismissal.

Mr. VERTREES. I do not think you should answer me in that way. I do not reason with you about it. You can explain after you answer my question. You know the state of your mind?

Mr. PINCHOT. Yes, sir; I do.

Mr. VERTREES. Now answer me that question, and then you can reason about it just as much as you please.

Mr. GRAHAM. Mr. Chairman, would it not be well for the benefit of the committee if we could understand each other as to the meaning of a yes or no answer to a general question? Now, the thought in my mind, I think mine is the law of the case, is within that construction, when a question is asked, if there is any element in it, however small, to which the witness does not assent, then he should answer that question no, because it is not all true. Now, I do not know whether that is the thought in the minds of other gentlemen here or not; but as lawyers I think we know that these answers sometimes lead to misunderstanding, and I should think it would be well that we and the witness know what the rule is in that regard.

Mr. VERTREES. I suggest that the question be read.

(The reporter read as follows:)

Mr. VERTREES. Now, I will recur to the point I was asking you about, getting the frame of your mind in this matter. I ask you if you were not here feeling that you had been discharged wrongfully and unjustifiably; that you had done no wrong yourself.

Mr. PINCHOT. No; the answer to that is, Mr. Vertrees—

Mr. VERTREES. Did you say "no" or now?

Mr. PINCHOT. I say no—

The CHAIRMAN. We can not lay down any rule in advance on this matter. Proceed with this matter and we will get along the best we can.

Mr. PINCHOT. I say no, in pursuance of the rule which I understood Mr. Graham just now to have laid down. In other words, that there is something in the question with which I disagree, and therefore the question could not be answered yes. I have come here believing that my dismissal was unjustified, but without any bitterness whatever on that account.

Mr. VERTREES. Did I ask you about bitterness or the extent of your feeling?

Mr. PINCHOT. You asked me such a question as could not be answered, in my judgment, accurately without that addition.

Mr. VERTREES. Did you not approve in your letter to Senator Dolliver what Mr. Shaw and Mr. Price had done?

Mr. PINCHOT. I approved it, yes, sir, in general.

Mr. VERTREES. And you do not approve what you did yourself; do you not think you did right?

Mr. PINCHOT. I do.

Mr. VERTREES. And do you not believe that you were not insubordinate?

Mr. PINCHOT. I do.

Mr. VERTREES. And you did no wrong in that matter?

Mr. PINCHOT. I think I did no wrong in that matter.

Mr. VERTREES. That is how you feel about it?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And yet the fact is, on that that you were dismissed and discharged by the President.

Mr. PINCHOT. I was.

Mr. VERTREES. Now, I ask you if you do not feel that that discharge was wrongful and did you injustice?

Mr. PINCHOT. I should like to say, if you will excuse my necessity to explain—

Mr. VERTREES. Certainly.

Mr. PINCHOT. I answer that question "No," in accordance with Mr. Graham's interpretation.

Mr. VERTREES. Never mind about Mr. Graham's interpretation. I have reference to my own interpretation.

Mr. PINCHOT. I want to have it clearly understood just what I mean.

Mr. VERTREES. My question, I think, was not one of qualification. I put the plain question to you, if you do not feel that you were the subject of injustice in that dismissal?

Mr. PINCHOT. I feel that the President made a mistake in my dismissal; that it was an unjust dismissal, but—

Mr. VERTREES. That is all, I say.

Mr. JAMES. He can explain his answer if he desires.

Mr. PINCHOT. One moment. I have felt from the start that this matter was vastly one that was larger than any one man's personality: that whether I was rightfully or wrongfully discharged had nothing to do with it; that this was a national question, far transcending anything as to whether anyone has any bitterness in his heart or not.

Mr. VERTREES. Your explanation, if I understand the substance of it, Mr. Pinchot, is this: That you do feel that you were unjustly dismissed, but that your sense of duty and feeling makes you rise above any prejudices on that account.

Mr. PINCHOT. I think the question of injustice to me or any one individual in this matter is a very small question as compared with the great national interests at stake.

Mr. VERTREES. I am merely getting at what your mental state is now. What I want to know is whether or not you feel, whether there were other big questions or not, that in this treatment of yourself you were mistreated?

Mr. PINCHOT. I thought the President was unjust in what he did.

Mr. VERTREES. Now, you have answered my question. You think

he was imposed upon, too, do you not, and unjust to do it, by somebody else?

Mr. PINCHOT. I have said nothing of that kind.

Mr. VERTREES. I know you have not, but I am asking you to state now what you believe about it. Do you blame the President for it?

Mr. PINCHOT. I have felt from the start that the President's intention in this whole matter was entirely good.

Mr. VERTREES. Then, with a good intention, having done you an injustice, how do you think that was brought about? Who did it?

Mr. PINCHOT. What happened in the cabinet room after that time, after my letter to Mr. Dolliver, I have no means whatever of knowing.

Mr. VERTREES. I am not asking you about your knowledge; I am now searching your mind, Mr. Pinchot. Do you not blame Mr. Ballinger for it?

Mr. PINCHOT. For my dismissal?

Mr. VERTREES. Yes.

Mr. PINCHOT. Not in the slightest degree.

Mr. VERTREES. For the President's action with you?

Mr. PINCHOT. Not in the slightest degree.

Mr. VERTREES. And have you not claimed here that all this was brought about—that the President's action was influenced and induced by the misrepresentations that Mr. Ballinger made to him?

Mr. PINCHOT. I have claimed here that Mr. Ballinger misinformed the President on many points, but, so far as I am aware, I have never claimed that my dismissal from the service was due to Mr. Ballinger.

Mr. VERTREES. Do you ascribe it to that?

Mr. PINCHOT. I do not.

Mr. VERTREES. To what do you ascribe it?

Mr. PINCHOT. I ascribe it to a mistake made by the President.

Mr. VERTREES. On what was that mistake predicated—I will state it otherwise; wherein lies the mistake?

Mr. PINCHOT. The mistake lies in the belief in the President's mind that I had been insubordinate and disrespectful, as I understand it.

Mr. VERTREES. And with respect to what?

Mr. PINCHOT. With respect to my letter to Senator Dolliver.

Mr. VERTREES. Do you not charge here that Mr. Ballinger—did you not make that in your opening charge, and have you not said and resounded it through this hearing, as an inference on your part, that Mr. Ballinger had deceived the President with respect to these matters?

Mr. PINCHOT. Not with respect to my dismissal.

Mr. VERTREES. Not dismissal; as a result of the things that came about.

Mr. PINCHOT. I have made the charge many times that Mr. Ballinger did deceive the President.

Mr. VERTREES. And as a result of that deception the President believed in him and you did not, and you felt, therefore, impelled by reason of the circumstances to take the course you did? That is a correct statement of the situation, is it not?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. I understood you to say when you were at Spokane that you saw Mr. Glavis?

Mr. PINCHOT. Yes, sir.

MR. CUNNINGHAM. That that meeting was not the result of an agreement or understanding, but accidental so far as you were concerned?

MR. PINCHOT. I did not know that Mr. Glavis was to be there, and I did not expect to meet him at all.

MR. CUNNINGHAM. Recall—you did not know him, did you?

MR. PINCHOT. I have recalled that I was not entirely clear whether I had met him before in California. My inclination is to believe that I had, but I am not sure about it.

MR. CUNNINGHAM. I am not in what you knew about him, but whether you knew him or not. Now, did you know him—did you have any acquaintance with him as your best recollection, at that time?

MR. PINCHOT. My best recollection is that I had met him before, but as I said, I am not prepared to swear to it.

MR. CUNNINGHAM. It was so casual and distant that it made no great impression on your mind?

MR. PINCHOT. It had made no great impression on my mind from personal contact.

MR. CUNNINGHAM. That is what I mean, personal contact. Did you not at the same time tell the President that you had known Mr. Glavis for several years?

MR. PINCHOT. Yes.

MR. CUNNINGHAM. Did you not mean thereby to convey to the President the impression that he was a familiar man and you knew it because you had known him?

MR. PINCHOT. I meant definitely to convey the impression that he was a familiar man, the best of my personal acquaintance with him.

MR. CUNNINGHAM. Did you not use this language, "I have known him for several years?"

MR. PINCHOT. Yes.

MR. CUNNINGHAM. Now your relations with the President were very friendly, were they not?

MR. PINCHOT. Yes.

MR. CUNNINGHAM. They were personally kind and unusually friendly. You would not mind giving him the certificate of your knowledge of him as a familiar man and a knowledge based on several years of personal acquaintance?

MR. PINCHOT. I had several years' knowledge of him, but not personally acquainted.

MR. CUNNINGHAM. You say, "I have known him," you did not say, "I am acquainted with him."

MR. PINCHOT. I can only give you the state of my mind as it was at the time, and I state that it was made both on my personal knowledge of Mr. Glavis and on a good deal of knowledge of him as a familiar man.

MR. CUNNINGHAM. That is what you meant when you told the President that you had known him for several years?

MR. PINCHOT. That was my impression.

MR. CUNNINGHAM. I understand that now. In your letter, written to the President, you told the President that the Cunningham coal was the one which attracted your attention by telegram.

MR. PINCHOT. Yes.

MR. CUNNINGHAM. What did you mean by "recall," Mr. Pinchot?

MR. PINCHOT. I meant that during the time when Mr. Garfield was Secretary of the Interior I had heard something about the Cun-

ningham coal case and had a general, but not accurate, knowledge of it.

Mr. VERTREES. That was what you meant?

Mr. PINCHOT. That was what I meant.

Mr. VERTREES. Now, you also told the President in that letter that this telegram—that it has been brought to your attention by a telegram from the Forestry Service men in the Portland, Oreg., office, calling for action to prevent the passage to patent of coal entries—

Mr. PINCHOT. Yes, sir; that was a mistake.

Mr. VERTREES. Wait a moment—alleged to be fraudulent, lying within the Hetch Hetchy national forest; the necessary action was taken and the issue of patent was deferred.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. You admit that that was not true?

Mr. PINCHOT. That was a mistake.

Mr. VERTREES. It was not so?

Mr. PINCHOT. It was a mistake.

Mr. VERTREES. I do not mean that it was intentional.

Mr. PINCHOT. Certainly not.

Mr. VERTREES. That was inaccurate?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Did you not also tell him this, that the "deplorable fact which I learned after I came here—that water-power sites had been acquired on land restored after restoration and before the second withdrawal—would greatly stimulate the search for similar cases." You wrote him that, that there was the deplorable fact that you learned after you came there that water-power sites had been acquired on land restored?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. That is another mistake?

Mr. PINCHOT. It has since turned out to be.

Mr. VERTREES. And a gross mistake?

Mr. PINCHOT. I should not characterize it as a gross mistake. I was informed by a man that I had reason to believe—

Mr. VERTREES. I am not on your bona fides, but the fact—

Mr. PINCHOT. I was informed by a man whom I had reason to believe was thoroughly acquainted with it, that this was the fact.

Mr. VERTREES. You misunderstand my question. I am not on your bona fides, and you believed what you said; that is not what I am on. So you need not tell me you had information to that effect. I am on the truth of that statement. You admit that it was not true?

Mr. PINCHOT. It was not true.

Mr. VERTREES. So in these letters you sent to the President about this matter, bringing these charges of Glavis to his attention—there were three things there, three statements that you made to him in order to get his attention to this matter. First you told him that the official action of your office had absolutely stopped the issuance of patents, and that was true.

Mr. PINCHOT. That was a mistake.

Mr. VERTREES. And you told him that the deplorable fact was that by reason of the fact that Secretary Ballinger's action—that is what it meant—that land had been restored to the water-power site, had been acquired on land restored. That was not true?

Mr. PINCHOT. That was a mistake.

Mr. VERTREES. And you said to him "I have known Glavis for several years," and what you meant by that was not that you had known him in the sense that you knew him to be reliable at all, but you had known of him.

Mr. PINCHOT. My judgment is that I had known him, and also knew him to be reliable; both.

Mr. VERTREES. So those letters were the representations that you presented to the President to induce him to hear Glavis?

Mr. PINCHOT. Certainly; he has my letters.

Mr. VERTREES. I ask you now if the real important or bone work of those letters you yourself admit was inaccurate?

Mr. PINCHOT. I certainly do not. The question as to whether or not I made mistakes in those letters is not the essential thing at all. I believe that the President would have seen Glavis whether or not I had made those statements in the letters.

Mr. VERTREES. Did he write any paper to you?

Mr. PINCHOT. He put in my hands a number of papers.

Mr. VERTREES. Not all the papers you have here?

Mr. PINCHOT. No, sir.

Mr. VERTREES. But there are a number of papers tending to excite your alarm along those lines and convince you that those things were true?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Those things that you say are now——

Mr. PINCHOT. No; not the things that are in the letters.

Mr. VERTREES. The patented coal entries. How about that—not the things in the letters, but other matters? Now, what was it that those papers show had been done? What particular thing, I want now, and not the result or reason, but a particular thing.

Mr. PINCHOT. I have tried to recall exactly which of the papers Glavis showed to me at that time, and I have been sufficiently familiar with them since, so that my recollection is fixed. I do not remember at what time I first saw the different papers in the record, and I am afraid I can not answer your question satisfactorily.

Mr. VERTREES. So you can not answer that?

Mr. PINCHOT. Not satisfactorily.

Mr. VERTREES. You mean satisfactorily to yourself?

Mr. PINCHOT. I can pick out certain papers that were certainly there if you will give me until to-morrow to do it.

Mr. VERTREES. You have stated that you got the information as to those power sites from a very reliable person; "from a man whom I had reason to believe was reliable."

Mr. PINCHOT. Believed he was reliable.

Mr. VERTREES. You believed he was reliable.

Mr. PINCHOT. Whom I had reason to believe was reliable.

Mr. VERTREES. Who was he?

Mr. PINCHOT. He was a newspaper man named Evans.

Mr. VERTREES. What did he tell you?

Mr. PINCHOT. He told me he had found those power sites had been taken up and had been to the land office and copied the records.

Mr. VERTREES. He was a newspaper man?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Did he tell you how many?

Mr. PINCHOT. He described to me, as I recall the situation, as it afterwards turned up.

Mr. VERTREES. How many?

Mr. PINCHOT. One hundred and fifty-six.

Mr. VERTREES. Not what has turned up, but what he has told you.

Mr. PINCHOT. He described to me the situation as it was since published, except that he told me 156 acres and not 15,000 acres.

Mr. VERTREES. You had information then that there had been 156 acres; the extent of his information was that?

Mr. PINCHOT. I do not know whether it was a hundred and fifty-six or fifteen thousand.

Mr. VERTREES. That is what I want to get at.

Mr. PINCHOT. He told me this, Mr. Vertrees, at least that the power sites had been taken up. I remember that much.

Mr. VERTREES. You described it in your letter to the President as a deplorable fact. That carries to my mind something extraordinarily bad, Mr. Pinchot; a minor matter would not amount to much—a few acres. You would not consider that deplorable?

Mr. PINCHOT. I would consider it deplorable in its degree, large or small.

Mr. VERTREES. Anything is deplorable.

Mr. PINCHOT. In its degree anything is deplorable that goes wrong.

Mr. VERTREES. You would describe then "any at all" as a deplorable fact. You meant that, did you?

Mr. PINCHOT. What I believed then and believe now is that it was exceedingly deplorable that the opportunity for any of those sites to be taken up should be given.

Mr. VERTREES. Now I am not on the opportunity. That is not what you represented to the President—it is the fact that you represented it to the President as deplorable, and not the opportunity.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, we will pass from that. I understand that. We will now go to another question. I would like to have you explain—and in the explanation I am asking you for information, largely—this that you call conservation; that is a broad and comprehensive term; it may mean much and it may mean little, but I want to know what you understand that term to convey; what do you mean by it?

Mr. PINCHOT. Do you mean by conservation of the natural resources?

Mr. VERTREES. Yes, sir; conservation of the natural resources of the country.

Mr. PINCHOT. It means, briefly, the use of the natural resources for the benefit of present and future generations without waste or unnecessary destruction.

Mr. VERTREES. There would be no difficulty, would there, in anybody agreeing to that statement, that that was a wise and important thing?

Mr. PINCHOT. Most people would agree with that.

Mr. VERTREES. Everybody would agree that there should not be waste of anything that would be useful, and we ought to save things that we have proper use for for the present generation and not waste them; so after all it comes down to a matter of method more than a statement of principles.

Mr. PINCHOT. I do not think I understand you.

Mr. VERTREES. I will try to make it plain. Is this not true, that the policy of the country since this has been a republic, in dealing with public lands and minerals, has been to give the citizens of the Republic the right to acquire ownership in fee? That has been the system up to this time?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Is it not a fact that when the United States was formed that several of the States conveyed large bodies of land to the General Government for the use of citizens of all the States, and deeds or cessions which in terms provided that they should be open to the acquisition of the citizens of title in fee?

Mr. PINCHOT. I do not recognize that description, Mr. Vertrees.

Mr. VERTREES. You do not?

Mr. PINCHOT. It seems to me that the land outside of the original thirteen States belonged to the nation, and not to the States.

Mr. VERTREES. You do remember that Virginia and some of the States ceded very large grants?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Very large territories?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And I ask you if it was not expressed in them that they should be open to acquisition in the manner I have stated?

Mr. PINCHOT. I do not know about that.

Mr. VERTREES. At any rate, you would admit, then, that up to this time the general plan and policy of the Government has been to permit the citizens of the Republic to acquire the ownership of land and the minerals in fee?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Under different forms?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, under that system, if I understand you, you stated the other day that abuses had grown up?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. In which large bodies of land were acquired and held by what you are pleased to call "monopolies?"

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And you thought that was wrong?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, I am asking you if your plan of what you call "conservation" does not mean—and, if I understood you correctly, you stated that it did mean—a change of the old system and the adoption of something new?

Mr. PINCHOT. It does, in certain respects; yes, sir.

Mr. VERTREES. That is what I wanted to get at—the practical, concrete thing—and so I ask you to state the respects in order that we can get at it.

Mr. PINCHOT. It requires, for example, that the coal lands shall no longer be passed in fee simple to private individuals, but that the title shall remain in the Government and the lands shall be leased. It requires also that the water-power sites shall no longer pass in fee simple to individuals, but shall remain—the title shall remain—in the Government and that the right to use these sites shall be granted for limited periods and under a stipulation or agreement to certain individuals.

Mr. VERTREES. They shall be leased?

Mr. PINCHOT. They shall be leased. It is *not* a lease, however, that is recognized by a permit, which is a different thing.

Mr. VERTREES. I am not on the form. The general idea of letting and not selling?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Very well. Now, take the other minerals.

Mr. PINCHOT. As to the other minerals, the policy is less clearly defined. As to timber—

Mr. VERTREES. You say the policy is left clearly defined. As I said to you awhile ago, I am asking you for information; I want it defined. You said you thought the whole policy should be departed from, and I want to know what the new substitute is going to be. I want to know how you would work it out.

Mr. PINCHOT. Do you mean how coal and placer land ought to be handled?

Mr. VERTREES. Yes, sir.

Mr. PINCHOT. I believe that as to coal and the precious minerals the surface of the land should be separated from the underlying minerals and that the rights to work those minerals should not carry with them the use of more of the surface than is necessary for that purpose.

Mr. VERTREES. Now, then, proceed—

Senator ROOT. What did you say to add to coal?

Mr. PINCHOT. Some of the precious minerals. I am not as clear, Mr. Vertrees, as to the precious minerals, that is to say, the policy is not as well developed in my mind, and I have not worked it out as far with regard to precious minerals as with regard to coal.

Mr. VERTREES. Is this not true, that you mean by that that the present system is bad, and you have not gotten a better system to substitute for it?

Mr. PINCHOT. I mean by that that the present system is in some respects bad, and I believe it can be improved, but I have not yet worked out any methods of improvement.

Senator SUTHERLAND. Do I understand that you disagree with the present methods relative to precious minerals as well as to coal?

Mr. PINCHOT. For instance, Senator, I believe there is a great deal of question whether or not we ought to have a square location in lode claims instead of the law of the apex.

Senator SUTHERLAND. I am very much inclined to agree with your suggestion. We ought to do away with that, but that is simply a method of acquiring the title. It does not do away with the present system of conveying the title, I think.

Mr. PINCHOT. No, sir.

Senator SUTHERLAND. And conveying the surface as well as the underlying minerals, that was the thought I wanted to get at.

Mr. PINCHOT. I understand that in some countries, notably in Austria, the method of working precious minerals under permit or lease from the Government has been developed with very great satisfaction to the miners. That question has been up here, but so far as I am informed there is no clearly defined policy in the matter upon which the friends of conservation have agreed, and that is what I had in mind, in part, when I said I was less clear in my mind about the precious minerals than I was about coal.

Senator SUTHERLAND. Well, do you think the precious minerals ought to be conserved in the ground?

Mr. PINCHOT. By no means. I think they ought to be worked.

Senator SUTHERLAND. They ought to be extracted and put into use?

Mr. PINCHOT. Yes, sir; certainly.

Mr. VERTREES. Now, about the timber?

Mr. PINCHOT. The old policy as to timber was reversed to a certain extent on March 3, 1891, when the law creating national forests, or making possible the creation of national forests, was passed, and since that time increasing areas have been withdrawn from private acquisition and held in the hands of the Government.

Mr. VERTREES. If I understand you, as to the coal and the minerals and the water sites, you would still give a title, except it would not be a title in fee, but a leasehold interest or a determinable one.

Mr. PINCHOT. I did not know that that was called a title. I would give them a right to use those resources for a certain definite time.

Mr. VERTREES. You object to the word "title." You would just give a right for a limited time?

Mr. PINCHOT. Yes, sir. With compensation to the public.

Mr. VERTREES. That is your idea, but what I wish to know is if the scheme contemplates—that is, this conservation scheme—the letting of these things, or the giving of this right for a time to citizens to work or operate, and that the Government shall not attempt to do it itself?

Mr. PINCHOT. Certainly.

Mr. VERTREES. What about the water or the rivers? Does this theory of conservation assume any control of the waters?

Mr. PINCHOT. No, sir. The plan which the conservation people have held most firmly about the rivers in general, I mean apart from the power question alone, is that a general plan ought to be provided covering all the uses of the rivers of the United States, so that we should get as a people from the rivers the largest benefit that they can possibly give. It has been the habit in the past to grant rights for certain uses which have not been so exercised as to prevent other uses.

Mr. VERTREES. The thought I had and which I wish to get before your mind is, do you propose to deal with the rivers, the water, as a thing of property value like you would with the land; that is, on the theory that the Government owns the water and will sell or lease that just like it would sell or lease land on the side of the river?

Mr. PINCHOT. No, Mr. Vertrees; the conservation people have been well aware that in the question of the ownership of the water there was a very well-developed and active feeling in the States that the water belonged to them, and they have been particularly careful not to raise the point of law as to whether the water itself belonged to the State or the nation.

Mr. VERTREES. You have been keeping quiet on that.

Mr. PINCHOT. Very. I have no information on that subject.

Mr. VERTREES. You have not worked that out?

Mr. PINCHOT. I do not know what the legal rights are.

Mr. VERTREES. It is true, is it not, Mr. Pinchot, that what may be known as the East of the United States has been largely developed upon the old theory that has prevailed up to this time of ownership, the people owning the property in fee and every fellow working it the way he could?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, this principle, as I understand you—your coal conservation—proposes to change that practice so far as the West is concerned, for that would be the field of its principal application, would it not—the West?

Mr. PINCHOT. It would as to the coal; it would in part as to the water power—only in part.

Mr. VERTREES. I said principally, so that it proposes, as far as the development of the West is concerned, the use of public utilities there, or natural resources if you prefer that name, to apply this new system there which is one of leasing, not of ownership.

Mr. PINCHOT. Yes, sir; and it is one also of protection instead of waste.

Mr. VERTREES. That is the reason of it, to protect and not to waste; but I am on the principle of ownership.

Mr. PINCHOT. Mr. Vertrees, that does not cover all the natural resources.

Mr. VERTREES. Well, what else? What does it fail to cover? I am merely getting your idea.

Mr. PINCHOT. For instance, the general statement made would include agricultural lands, as you made it.

Mr. VERTREES. Do you believe, as far as lands are concerned, that they should be owned by persons or citizens?

Mr. PINCHOT. Agricultural lands?

Mr. VERTREES. Timber lands?

Mr. PINCHOT. Timber land to a certain extent, but there are many thousands of acres of timber lands which ought to be owned by the Government.

Mr. VERTREES. You say to a certain extent; that does not give me any idea. Suppose there is land which was very fine for timber; if the timber was cleared off it would be very fine agricultural land. What are you going to do with that?

Mr. PINCHOT. Mr. Vertrees, I am sorry to tell you that these general principles can not be drawn up and divided into little sharp lines, such as you have been intending to apply. You have got to allow me to qualify my answer, because it is necessary to a proper understanding of the subject.

Mr. VERTREES. I appreciate that, and therefore I ask you the question, when you take the lands of the West, these lands that are very available for timber, as they now stand in their virgin strength, but if they were cleared would be fine arable and cultivable land—what is your theory about the management of those lands?

Mr. PINCHOT. The theory that I have as to the management of those lands is that they should be cleared and go into private ownership.

Mr. VERTREES. So that in its last analysis this new scheme which you propose to introduce and substitute for the old one contemplates that the lands that are cultivable and will produce the cereals properly and rightfully; in other words, would be more valuable for agricultural lands than for any other purpose, that they shall become agricultural lands?

Mr. PINCHOT. Certainly.

Mr. VERTREES. But so far as the water-power sites are concerned, you feel a special interest in saving them, because you have felt that

there are certain special interests that were awaiting to acquire or get hold of them?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. So as the net result of that, while you were in, and under your predecessor, Secretary Garfield—

Mr. PINCHOT. Mr. Garfield was not my predecessor.

Mr. VERTREES. Well, then, your associate. You were conferring together on the same lines, were you not?

Mr. PINCHOT. Yes, sir; we did.

Mr. VERTREES. You are working together now, are you not?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. In this movement against Secretary Ballinger?

Mr. PINCHOT. In this conservation movement.

Mr. VERTREES. I did not ask you about that. I asked you about this movement against Secretary Ballinger.

Mr. PINCHOT. I do not recognize a movement against Secretary Ballinger.

Mr. VERTREES. You do not recognize that you are?

Mr. PINCHOT. I do not recognize a movement.

Mr. VERTREES. Well, the movement.

Mr. PINCHOT. I do not even recognize the movement against Secretary Ballinger.

Mr. VERTREES. What I want to get at is, I want to know if you and Mr. Garfield and Mr. Glavis and Mr. Shaw and others have not on hand a movement which means the removal and, if possible, the political or official destruction of Secretary Ballinger?

Mr. PINCHOT. If you ask me whether we have on hand a movement which means the conservation of the natural resources and the protection of them, no matter who suffers, I will say to you "Yes."

Mr. VERTREES. Now you are getting a little closer to what I am wanting to know. You have got a movement?

Mr. PINCHOT. A conservation movement.

Mr. VERTREES. And the obstacle in the way of that movement, as you understand it, and as you have told this committee, is Mr. Secretary Ballinger.

Mr. PINCHOT. One of them.

Mr. VERTREES. One of the principal ones, is he not?

Mr. PINCHOT. Yes, sir; one of the principals.

Mr. VERTREES. So you and the gentlemen I have spoken about are associated to try to remove the obstacle?

Mr. PINCHOT. We started in to reform it.

Mr. VERTREES. That is what I am getting at. You have failed in your reform and now you are going to remove it, is that not so?

Mr. PINCHOT. We are going to place the facts before the committee.

Mr. VERTREES. That is but another way of admitting what I have said. Now let us get down to facts.

Mr. PINCHOT. Let us get down to facts, Mr. Vertrees.

Mr. VERTREES. That is what I want to get at—what is behind.

Mr. PINCHOT. We will try to do that. Now what we are trying to do, and what we have been trying to do, is not properly described as a movement to get any particular man or any particular set of men out of the way. It may be incidentally necessary. I stated that, Mr. Vertrees, in my opening statement as well as I knew how. I said it was not merely the duty of this country to get rid of an unfaithful

public servant, but a far larger duty lay behind that. That is the big movement that we are interested in mainly.

Mr. VERTREES. Who are "we?" That is what I am after.

Mr. PINCHOT. All the friends of conservation, I should say.

Mr. VERTREES. But particularly what I want to get at is are not "we" you and Mr. Garfield and Mr. Glavis?

Mr. PINCHOT. We are part of the "we." It is a very big "we."

Mr. VERTREES. And you regard Mr. Ballinger as a very serious obstacle in the way, do you not?

Mr. PINCHOT. Mr. Ballinger has been a serious obstacle in the way.

Mr. VERTREES. Now, why, Mr. Pinchot?

Mr. PINCHOT. I am very glad to answer that. Mr. Ballinger started in when he first came to Washington, in accordance with my belief, with the intention, as I expect the witnesses I propose to show will show, of reversing the water-power policy as far as he could. He thereby became a very serious obstacle in the way of conservation. He became a serious obstacle in the way of conservation, also, by his action in the ranger-sites matter; by his action with regard to the Cunningham claims. I think he has been in the same position. In other words, the testimony which has come before this committee is itself the best answer that I can make to that question.

Mr. VERTREES. Now, is that all?

Mr. PINCHOT. I am not sure that it is all.

Mr. VERTREES. I mean all that is in your mind?

Mr. PINCHOT. I mean all that is in my mind at the moment. I think I have forgotten something.

Mr. VERTREES. That would make him a menace and a danger to conservation, as I understand it now. That is the point that you have in mind?

Mr. PINCHOT. Yes, sir. As I have said, I am conscious of having forgotten something, and I can not recall it.

Mr. VERTREES. It is now 5 o'clock, Mr. Chairman.

The CHAIRMAN. Do you desire to quit?

Mr. VERTREES. I was about to say if we adjourn now it will give me an opportunity to consider what the witness has said to-day, and I think I can cross-examine him with more satisfaction to the committee and myself too.

The CHAIRMAN. In other words, you believe conservation ought to extend to men as well as to land?

Mr. VERTREES. Yes, sir.

The CHAIRMAN. The record at this point will show the following letter from Mr. E. C. Finney, making certain corrections in his statement made before the committee February 18, 1910.

(The letter is as follows:)

THE SECRETARY OF THE INTERIOR,
Washington, February 21, 1910.

Hon. KNUTE NELSON,
Chairman Joint Committee of Congress.

Sir: Referring to my statement to your committee as to the effect of paragraph 27 of Alaska coal regulations upon the Cunningham claims, page 731, of testimony given February 18, 1910, the first sentence of my statement should read: "If I may be allowed to explain, I think I can exactly show why this rule had no application in Alaska when these applications were filed," and the last two words on line 9 of my statement should read, "eight months" instead of "six months."

Very respectfully,

E. C. FINNEY, Assistant to the Secretary.

The CHAIRMAN. The record will also show the following returns from the Department of the Interior to calls of the committee for documents:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 23, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: In response to your call for the original letter from Miles C. Moore to the Commissioner of the General Land Office, dated March 17, 1908, I hand you herewith said letter.

Very respectfully,

FRED DENNETT, *Commissioner.*

THE SECRETARY OF THE INTERIOR,
Washington, February 26, 1910.

DEAR SIR: I have your letter of February 24, wherein you request for the use of the joint committee of Congress—

"Originals of letters of Miles C. Moore, of May 22, 1909, and May 24, 1909, to Secretary Ballinger, and of March 17, 1908, to Commissioner Ballinger, and any other letters or telegrams from Miles C. Moore in the possession of the Secretary or the Land Office, or in his personal file, relating to Alaska coal lands."

I have the honor to invite your attention to my communications of February 19 and 21, 1910, with which were transmitted original letters addressed to me by Mr. Miles C. Moore on May 22 and 24 and June 4, August 14, and September 16, 1909, as well as copies of my replies to all of said letters except the one dated June 4, to which no reply was made.

The Commissioner of the General Land Office has been directed to furnish any letters from Mr. Moore which may be in the files of his office.

There are no letters whatever from Mr. Moore to me in the personal files of my office.

Very respectfully,

R. A. BALLINGER, *Secretary.*

HON. KNUTE NELSON,
Chairman Joint Committee of Congress, United States Senate.

THE SECRETARY OF THE INTERIOR,
Washington, February 26, 1910.

DEAR SIR: I am in receipt of your letter of February 24, requesting for the use of the joint committee of Congress—

"Copy of letter of the President to Secretary Ballinger of August 13, 1910."

Assuming that the communication, a copy of which is desired by your committee, is the one dated September 13, 1909, I have the honor to inclose a copy thereof herewith.

Very respectfully,

R. A. BALLINGER, *Secretary.*

HON. KNUTE NELSON,
Chairman Joint Committee of Congress, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 28, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Referring to your request of February 24, 1910, I have to report as follows:

Paragraph 1 calls for—

"Letter of H. H. Schwartz to Special Agent Colter defining position of subordinates, written either in September or October, 1909."

You are advised that this letter was transmitted to you on February 24, 1910.

Paragraph 2 calls for—

"Originals of letters of instruction given by Special Agent Glavis to Andrew Kennedy and Special Agent Stoner respecting the field examination of the Cunningham coal claims."

Special Agent Gery was wired to transmit these letters immediately, and to wire advice respecting the same. February 26, 1910, Agent Gery wired "Copy forwarded this day."

With respect to paragraph 3, I inclose herewith letter from Miles C. Moore to Secretary Ballinger, dated April 9, 1909, to which is attached a memorandum by Mr. Carr (printed in Senate Document 248, p. 513); telegram from Miles C. Moore to Commissioner Ballinger, dated February 27, 1908, and the jacket in which this telegram was inclosed, and the reply telegram from Commissioner Ballinger to Moore, dated February 28, 1908; letter from Miles C. Moore to H. K. Love, dated April 7, 1907; and letter from Miles C. Moore to Commissioner General Land Office, dated December 29, 1907.

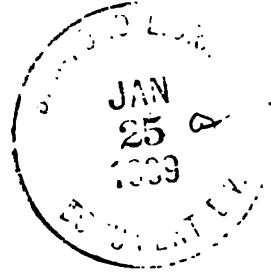
These are all the letters in the General Land Office from Miles C. Moore which had not been forwarded to the joint committee.

Very respectfully,

FRED DENNETT, *Commissioner.*

The CHAIRMAN. The committee will stand adjourned until next Friday morning at 10 o'clock.

(Accordingly, at 5 o'clock and 5 minutes p. m. the committee adjourned till Friday, March 4, 1910, at 10 o'clock a. m.)



NO. 16

**HEARINGS BEFORE THE COMMITTEE TO INVESTIGATE THE
INTERIOR DEPARTMENT AND FORESTRY SERVICE**

MARCH 4, 1910

**ROOM 207, SENATE OFFICE BUILDING
WASHINGTON, D. C.**

MEMBERS OF THE JOINT COMMITTEE.

KNUTE NELSON, Minnesota, Chairman.

SAMUEL W. MCCALL, Massachusetts, Vice-Chairman.

FRANK P. FLINT, California.

GEORGE SUTHERLAND, Utah.

ELIHU ROOT, New York.

WILLIAM E. PURCELL, North Dakota.

DUNCAN U. FLETCHER, Florida.

MARLIN E. OLMSTED, Pennsylvania.

EDWIN DENBY, Michigan.

E. H. MADISON, Kansas.

OLLIE M. JAMES, Kentucky.

JAMES M. GRAHAM, Illinois.

PAUL SLEMAN, Secretary.

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The CHAIRMAN. The committee will stand adjourned until next Friday morning at 10 o'clock.

(Accordingly, at 5 o'clock and 5 minutes p. m. the committee adjourned till Friday, March 4, 1910, at 10 o'clock a. m.)

FRIDAY, MARCH 4, 1910.

JOINT COMMITTEE TO INVESTIGATE THE INTERIOR DEPARTMENT AND FORESTRY SERVICE, *Washington, March 4, 1910.*

The Joint Committee to Investigate the Interior Department and Forestry Service met, pursuant to adjournment, at 10 a. m.

Present: Senators Nelson (chairman), Flint, Sutherland, Fletcher, and Purcell; Representatives McCall, Olmsted, Denby, Madison, James, and Graham; Mr. Paul Sleman, secretary; also Mr. Louis D. Brandeis and Mr. Joseph P. Cotton, jr., representing Mr. Louis R. Glavis; also Mr. George Wharton Pepper, representing Mr. Gifford Pinchot; also Messrs. John J. Vertrees and Carl Rasch, representing Secretary Ballinger; also Mr. E. C. Finney?

The CHAIRMAN. Mr. Pinchot, will you be kind enough to take the stand?

TESTIMONY OF GIFFORD M. PINCHOT—Resumed.

The CHAIRMAN. The cross-examination will proceed, Mr. Vertrees.

Mr. VERTREES. Mr. Pinchot, what fact—and I mean fact; I do not mean hearsay, nor do I mean inference, that you may have drawn from anything that anyone else has testified to—what fact of your own knowledge do you consider that you have stated that relates to this Cunningham coal question, or any other question of Mr. Ballinger's conduct as commissioner or Secretary with reference thereto? You will observe that I separate conservation questions from that question also.

Mr. PINCHOT. Will you kindly repeat the question, Mr. Vertrees? I am not sure that I got it or understand it.

Mr. VERTREES. As you have the idea from the question, I will put it in a little different form. What facts have you stated as a fact, and not as an inference or from hearsay, that sheds light upon the question of Mr. Ballinger's conduct as an official with reference to lands in Alaska?

Mr. PINCHOT. My knowledge of Mr. Ballinger's conduct with reference to lands in Alaska necessarily came to me partly through statements of others, including Mr. Ballinger himself in his correspondence.

Mr. VERTREES. Then do I understand that to mean that you have no knowledge of your own with reference to the matter?

Mr. PINCHOT. I have a certain amount of knowledge, Mr. Vertrees, with reference to my connection with the matter, which I have endeavored to state in my testimony.

Mr. VERTREES. Have you not stated it, though, Mr. Pinchot, as in the form of inferences, conclusions, and opinions based upon facts which you have gotten from others?

Mr. PINCHOT. I have stated it partly in terms of my own personal experience, and partly, as I recall, with reference to your question, in terms of things that I have learned from others and from documents.

Mr. VERTREES. Then restate, in your own language, one fact within your own knowledge that reflects in any way upon Mr. Ballinger's conduct as an official, either as Secretary or commissioner, touching Alaska coal matters—within your own knowledge, now, and not based on what you have heard, or what you have been told, or what somebody has said to you.

Mr. PINCHOT. Or what somebody has written?

Mr. VERTREES. Yes; anybody except Mr. Ballinger. "Said" and "written" are the same things in my question; it is hearsay. I want you to state what you know.

Mr. PINCHOT. Mr. Chairman, I ask your permission, in order to answer that question with care, for it is a difficult question to answer, because of the nice discrimination that it involves—I ask your permission to refer to a list which I have with me of things Mr. Ballinger has done, to see which of them, if any, are wholly within my own knowledge.

The CHAIRMAN. I presume you have the right to refer to a memorandum to refresh your memory.

Mr. PINCHOT (after referring to memorandum). Mr. Chairman, I am ready to answer the question.

Mr. VERTREES. Well, sir, answer it.

Mr. PINCHOT. The things which I know of my own knowledge—the thing which I know of my own knowledge in reference to the matter is best stated as Mr. Ballinger's letter of November 15 to the President, which contains a number of misstatements, as I have partly shown and am prepared to show still further.

Mr. VERTREES. Well, anything else?

Mr. PINCHOT. I am not sure; there may be other things.

Mr. VERTREES. Well, I want you to be sure. I am pretty sure myself.

Mr. PINCHOT. Yes. You have thought over the question and I have not.

Mr. VERTREES. Yes; and I have listened to your testimony, and I ask you now, you yourself, after reflection and after reading your list, to state the one single fact in your knowledge, not based on what somebody else has said or what somebody else has told you, that reflects upon the official conduct of Mr. Ballinger.

Mr. PINCHOT. I am not quite sure whether this comes within the definition of your question or not. There are one or two very important things in the President's letter of September 13.

Mr. VERTREES. Well, now, stop. Do you think that is an answer to my question, What is in the President's letter?

Mr. PINCHOT. I think if you will allow me to answer, you will see it is.

Mr. VERTREES. Very well.

Mr. PINCHOT. Things which the President could not have put in his letter, unless Mr. Ballinger had deceived him.

Mr. VERTREES. Now, isn't that an inference of yours, pure and simple, from the reading of the President's letter; an inference based upon an inference? And my question to you, Mr. Pinchot, was as to the facts; what you yourself know that this man said or did.

Mr. PINCHOT. Well, I know what he said or did in his letter of November 15 to the President.

Mr. VERTREES. Well, you have answered that already.

Mr. PINCHOT. Yes.

Mr. VERTREES. Then I asked you what else.

Mr. PINCHOT. I know that he included—unless you call that an inference also——

Mr. VERTREES. What do you call it? You know what I asked you.

Mr. PINCHOT. In his letter of February 15—the Ronald letter——

The CHAIRMAN. What letter?

Mr. PINCHOT. The Ronald letter.

Mr. VERTREES. Judge Ronald's letter?

Mr. PINCHOT. Judge Ronald's letter; yes, sir.

Mr. VERTREES. So that all your answers make the center of the letter of the 15th?

Mr. PINCHOT. They make the center.

Mr. VERTREES. And is there anything now—you know the difference between knowledge and inference, between knowledge and hearsay; you know that as well as I do. And without telling me what I understand and what you understand, just come right down to the fact and state to this committee if you have heretofore stated any facts within your knowledge with reference to Mr. Ballinger's conduct up there—any fact with reference to Mr. Ballinger's conduct in regard to the Alaskan matters?

Mr. PINCHOT. I have stated a great many facts in relation to these Alaskan matters substantiating my statement by his own published letters.

Mr. VERTREES. I understand that, but they were matters from which inferences could be drawn by others and by the committee, and by me as well as by you?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, leave that out of view and come down to what you know yourself; to what he said or did; that you know; not based on what somebody else said, or your inferences from other things you are informed he said?

Mr. PINCHOT. So far as I can recall, I have never discussed the Cunningham cases with Mr. Ballinger.

Mr. VERTREES. Well, then, he has not told you anything?

Mr. PINCHOT. No.

Mr. VERTREES. Then eliminate that. Now, then, come down to what he did; that you know that he did yourself; that you know.

Mr. PINCHOT. What I know, as I have already said, is mainly contained in his letter of November 15 to the President.

Mr. VERTREES. In other words, a public writing—a writing that has been made public?

Mr. PINCHOT. A writing that has been made public.

Mr. VERTREES. A letter to the President. So that in the last analysis what you have said against him is based upon that letter to the President, so far as your knowledge goes—is that not right, Mr. Pinchot?

Mr. PINCHOT. I have no personal knowledge of any conversation with Mr. Ballinger, and my knowledge of the case at first hand is limited to writings which are not disputed, including Mr. Ballinger's letter of November 15.

Mr. VERTREES. Now we understand. You say your knowledge at first hand—can you leave out the first hand and say, so far as your knowledge is concerned, it is limited to that?

Mr. PINCHOT. No; I can not leave out "at first hand." I have a right to get knowledge from indisputed printed material.

Mr. VERTREES. I have not said you did not have the right to get it. What I want to get clearly before this committee is that you say, for I consider to be true whatever you have said, what you have already stated, that these extreme accusations which you have made, and which you announced in your index you would prove, so far as you are concerned, are based alone—of your knowledge, I mean—on what you say is contained in the letter that he wrote to the President, the remainder being upon information and hearsay and what others have said and stated to you?

Mr. PINCHOT. I took great pains——

Mr. VERTREES. Is not that correct?

Mr. PINCHOT. I took great pains, Mr. Vertrees, to state in my introduction that some of these things I propose to prove by the testimony of others.

Mr. VERTREES. Very well. That is not my question. I am on not what you are going to prove by the testimony of others, but what you are proving by the testimony of yourself.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And by testimony I mean a statement of facts within your knowledge, not based on the information of others, or statements of an inference. Now, then, what is that? If I understand you, it goes back to the letter of the President.

Mr. PINCHOT. Mainly to the letter to the President.

Mr. VERTREES. Mainly. That does not satisfy me; mainly does not. And you will compel me, by these answers, to take up the time of the committee in asking questions. My question is a fair one, is it not?

Mr. PINCHOT. Perfectly.

Mr. VERTREES. You admit that?

Mr. PINCHOT. Perfectly.

Mr. VERTREES. And I am entitled to a fair answer?

Mr. PINCHOT. Perfectly.

Mr. VERTREES. Leave out mainly and tell me if there is any other facts, and by facts I mean something you know yourself.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Not an inference, not a conclusion, not hearsay, not what somebody else said but something that you know that he did.

Mr. PINCHOT. Then I will answer you like this, Mr. Vertrees; that so far as I can recall at the moment, and I do not limit myself by that statement to a definite shutting out of other things—so far as I can recall at the moment, my first-hand knowledge is limited to Secretary Ballinger's letter of November 15.

Mr. VERTREES. Yes.

Mr. PINCHOT. With its inclosures.

Mr. VERTREES. With inclosures. And so far as that is concerned, all that you know about that is that a copy of that letter was sent to you by the President and you accepted it as a correct copy of that letter?

Mr. PINCHOT. I did.

Mr. VERTREES. So that as far as that is concerned, it is not a matter within your personal knowledge, but your interpretation and understanding of what that letter means; is not that true?

Mr. PINCHOT. It is not within my own knowledge, if I understand your definition of direct knowledge. I did not see Mr. Ballinger write the letter.

Mr. VERTREES. I will explain to you if you do not understand what I do mean by direct knowledge. I will give an illustration. It refers, perhaps, to a time when you had to perform a very solemn and painful duty; I refer to the time when you reprimanded Messrs. Shaw and Pierce.

Mr. PINCHOT. Price.

Mr. VERTREES. Mr. Price, I mean. Now, there is a fact; tell this committee what happened then.

Mr. PINCHOT. You want me to describe what I did?

Mr. VERTREES. Yes; and describe it exactly. It is a fact what they did and what you did, and what you stated and what they stated. There is a fact within your own knowledge; that is an illustration, and I would like to have it before the committee just by way of illustrating what I mean by facts. Tell us what you did.

Mr. PINCHOT. I will be very glad to.

Mr. VERTREES. We will be very glad, too.

Mr. PINCHOT. I called Mr. Price into my room at home and asked him to describe to me what he had done and what Mr. Shaw had done; he did so at some length. At the conclusion of that interview I told him in substance—I do not recall the words—that what they had done was not defensible from the point of view of propriety in relations between departments, and that I did not approve of it; and I administered to him a reprimand, the reprimand, of course, extending to Mr. Shaw, whose activity as seen in the report was largely—was in part—that of a subordinate of Mr. Price. Does that answer your question?

Mr. VERTREES. Well, I do not know. You know what happened. If that is all, it answers my question.

Mr. PINCHOT. That is the substance of what took place.

Mr. VERTREES. Really you, in your heart, approved of what he did, did you not?

Mr. PINCHOT. I approved in my heart most emphatically of his motive in doing what he did; I did not approve of all he did.

Mr. VERTREES. Did you not practically justify it in your letter to Senator Dolliver?

Mr. PINCHOT. I justified the motive, while admitting that from the point of view of official propriety it was not defensible.

Mr. VERTREES. Did you not say to him this, in your letter:

When Price and Shaw forced publicity concerning the Cunningham claims they broke no law and at worst were guilty only of the violation of official propriety. Without question, they did for the people of the country what the people would have done for themselves had they been in a situation to do it.

Mr. PINCHOT. I said that and believe it now.

Mr. VERTREES. Now, your reprimand, wasn't it a mere pretense of a reprimand?

Mr. PINCHOT. No; it was a reprimand.

Mr. VERTREES. Meant to be a reprimand of them for wrongdoing?

Mr. PINCHOT. It was a reprimand for wrongdoing in the way that I have stated.

Mr. VERTREES. Wasn't it the business of the Secretary of the Department of Agriculture to do that?

Mr. PINCHOT. Decidedly not.

Mr. VERTREES. Decidedly not? And it was your business, then, and you sternly did that duty? That is what I mean by facts. There is something that happened itself within your own knowledge. Now I want to know whether you have any facts at all that you can state within your own knowledge that bears upon Mr. Ballinger's actions, either as Commissioner or as Secretary, touching the Cunningham claims or any Alaska matters?

Mr. PINCHOT. I have had no direct personal relation with Mr. Ballinger on that subject whatever, and therefore can have no personal knowledge in the sense in which you have just described it.

Mr. VERTREES. That is an answer to my question, and we will pass to something else. Who is Mr. George W. Woodruff?

Mr. PINCHOT. Mr. Woodruff was for several years the law officer of the Forest Service, and afterwards became Assistant Attorney-General in the Interior Department.

Mr. VERTREES. Where is he now?

Mr. PINCHOT. In New Jersey.

Mr. VERTREES. In what business is he engaged?

Mr. PINCHOT. He is, I believe, secretary of the Pocahontas Coal and Fuel Company.

Mr. VERTREES. Did he obtain that position on your recommendation?

Mr. PINCHOT. He did not.

Mr. VERTREES. You have no interest in that company?

Mr. PINCHOT. None whatever.

Mr. VERTREES. Or any coal company that it is related to?

Mr. PINCHOT. None whatever. I have no interest in any coal company.

Mr. VERTREES. Have your people?

Mr. PINCHOT. My people have some stock in a coal company in Illinois; how much I do not know.

Mr. VERTREES. What company is that?

Mr. PINCHOT. The Occaro Coal Company.

Mr. VERTREES. You have none in the Pocahontas mines or company?

Mr. PINCHOT. I haven't now, and never have had a cent.

Mr. VERTREES. I mean your people. You have answered for yourself.

Mr. PINCHOT. I beg your pardon. My people have none to my knowledge.

Mr. VERTREES. And have not had?

Mr. PINCHOT. Not to my knowledge.

Mr. VERTREES. Who is Mr. Evans?

Mr. PINCHOT. Mr. Evans?

Mr. VERTREES. Yes.

Mr. PINCHOT. Mr. Evans was a newspaper correspondent at that time, and I believe is still in the employ of the United Press.

Mr. VERTREES. Was he in your employ also?

Mr. PINCHOT. He was not.

Mr. VERTREES. Did he receive any compensation from you?

Mr. PINCHOT. None.

Mr. VERTREES. You stated in that letter to the President that various parts of Glavis's story were so much known that you believed it would be almost impossible to prevent it being published, in part at least, and before very long many persons would have knowledge, more or less, of the essential parts of it?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Who were those many persons?

Mr. PINCHOT. I am not sure that I can state them all.

Mr. VERTREES. State as many as you can.

Mr. PINCHOT. I will state as many as I can. Of course Mr. Price and Mr. Shaw had the information, which they had acquired in the course of their official duties. Mr. Evans and other newspaper correspondents had, I presume, a certain amount of information about it and the Cunningham coal cases in general were known about in Washington.

The CHAIRMAN. You mean the State of Washington or the city of Washington?

Mr. PINCHOT. No; the city of Washington.

Mr. VERTREES. Had not Mr. Evans, as a newspaper man, written it up some little time before it was made public?

Mr. PINCHOT. I do not know whether he had or not.

Mr. VERTREES. Did you not state that he had—that he was a reliable newspaper man, and that he was holding it because you requested him to do so.

Mr. PINCHOT. Mr. Evans had knowledge of the matter and he came to me at Spokane, and afterwards telegraphed me while I was at Boise City, and asked me if I did not think it would be right for him to release the information. Whether he had written it up or not I do not know. In which case I replied that I did not.

Mr. VERTREES. What does release information mean? That means something.

Mr. PINCHOT. It means give it out.

Mr. VERTREES. You knew he had it?

Mr. PINCHOT. I knew he had it, and I told him not to give it out.

Mr. VERTREES. Where did he get it?

Mr. PINCHOT. That I did not know.

Mr. VERTREES. Do you know what he had?

Mr. PINCHOT. He simply told me that he had a story.

Mr. VERTREES. What did he say he had?

Mr. PINCHOT. Well, he had the story about the Cunningham claims.

Mr. VERTREES. You brought in Governor Pardee and advised with him?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Was not Mr. Ballinger out there at that time, too?

Mr. PINCHOT. No, sir.

Mr. VERTREES. When did he appear?

Mr. PINCHOT. He appeared either one or two days after Mr. Glavis had started for Washington.

Mr. VERTREES. How many days did it take for Glavis to get from there to Washington and then to get where the President was up in the East?

Mr. PINCHOT. Oh, I think it takes from Spokane to Chicago either three or four days, and from Chicago to Boston one day.

Mr. VERTREES. Did you make any attempt to verify your information by inquiry of Mr. Ballinger?

Mr. PINCHOT. I did not.

Mr. VERTREES. You didn't speak to him on the subject?

Mr. PINCHOT. I didn't speak to him on the subject.

Mr. VERTREES. Were your relations friendly?

Mr. PINCHOT. Well, fairly friendly; not more.

Mr. VERTREES. Were you not dined by invitation at the same place with him?

Mr. PINCHOT. I was.

Mr. VERTREES. You said fairly friendly. Had anything unfriendly occurred between you?

Mr. PINCHOT. I knew, and I judged Mr. Ballinger knew, that our aims in these conservation matters were not the same.

Mr. VERTREES. The unfriendliness was due to your view of his policy with reference to conservation?

Mr. PINCHOT. And I presume his view of my policy.

Mr. VERTREES. And his view of your policy?

Mr. PINCHOT. So I assumed.

Mr. VERTREES. Do you recognize the fact that he had one view and you had another?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. That was the situation as you understood it.

Mr. PINCHOT. That fact was true, as I understand it.

Mr. VERTREES. But was there any other personal trouble between you, any matters of unfriendliness in any way?

Mr. PINCHOT. There had never been any personal quarrel whatever, to my knowledge, between Mr. Ballinger and myself, except that we differed on important points in the conservation policies.

Mr. VERTREES. That was not personal, was it? Were you unfriendly on that account?

Mr. PINCHOT. I was not unfriendly, but I distrusted him.

Mr. VERTREES. You mean you distrusted his policies?

Mr. PINCHOT. I distrusted his policies and what he would do under the policies that he held.

Mr. VERTREES. And for that reason you would not approach him on the subject when you wrote this letter to the President, or had written it, and which you now admit contained two very grave misstatements?

Mr. PINCHOT. I have never admitted that it contained two grave errors.

Mr. VERTREES. You did not admit that the other day?

Mr. PINCHOT. I did not; I admitted it contained two mistakes, but so far as the purposes of the letter were concerned, my judgment is now and was then that they are immaterial.

Mr. VERTREES. I was not on the immateriality just at present, nor was I on the question of motive. I was on the fact of the representation. As stated they certainly are very grave, are they not?

Mr. PINCHOT. They are not very grave.

Mr. VERTREES. Not? Well, let us look at that. Give me that letter. You told him there that it was necessary, did you not, for the forest people to intervene to prevent the passage of some fraudulent coal patents?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And that their intervention had prevented that?

Mr. PINCHOT. The fact was that it was necessary for the forest people to intervene to prevent a hearing preliminary to the issuance of patents and that their intervention had prevented that hearing.

Mr. VERTREES. That intervention had prevented the hearing?

Mr. PINCHOT. It postponed the hearing.

Mr. VERTREES. Isn't that quite a different thing, the hearing and preparation of cases and the issuances of the patents from the office here?

Mr. PINCHOT. It is different; but for the purpose of that letter I am not aware that it is a very grave mistake.

Mr. VERTREES. I did not speak of the purpose; I spoke of the letter itself.

Mr. PINCHOT. But you can not consider the letter without considering its purposes.

Mr. VERTREES. The President, was he not obliged to infer or get your purpose from the letter itself? That is where he got your purpose from—what you said to him?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And didn't you tell him there that the issuance of patents had been deferred on fraudulent claims by the intervention of your office?

Mr. PINCHOT. I did.

Mr. VERTREES. And that was not true?

Mr. PINCHOT. It was a mistake. I referred not to the issuance of the patents, but to the hearings.

Mr. VERTREES. Didn't you tell him that the deplorable fact existed that water-power sites had been acquired on land that he had restored?

Mr. PINCHOT. That is, that Mr. Ballinger had restored.

Mr. VERTREES. Yes; that Mr. Ballinger had restored?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And you described that as a "deplorable fact?"

Mr. PINCHOT. I did.

Mr. VERTREES. That was not true, was it?

Mr. PINCHOT. I was mistaken; I believed it at the time, just as I wrote it.

Mr. VERTREES. I am not on the question of your belief. You brought in a fact here, Mr. Pinchot, that Mr. Ballinger opposed the establishment of the Chugach forest here. What did you bring that out for? What was the necessity for that?

Mr. PINCHOT. It seemed to me to be a relevant fact in describing Mr. Ballinger's attitude toward the conservation policies.

Mr. VERTREES. I am going to ask you in that connection, as you brought it out for that purpose, to read to the committee the reason why Mr. Ballinger stated that he did oppose it. I read from page 1147 of the record. It is already in the evidence.

The reasons why he stated he opposed it are on page 1147 of the record and need not be copied because it is already in the record.

Mr. PINCHOT (reading):

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE.
Washington, D. C., April 24, 1907.

The honorable SECRETARY OF THE INTERIOR.

SIR: I have the honor to submit herewith in duplicate report on the proposed creation of the Chugach National Forest in Alaska, as recommended by the Secretary of Agriculture under date of March 13, 1907.

The proposed national forest embraces—

Do you want me to read the whole of it?

Mr. VERTREES. Yes, sir. Explain his attitude in the position you have seen fit to criticize it.

Mr. PINCHOT (reading):

all of the territory situated south of the main divide of the Chugach Mountains, which are located between Copper River and the west coast of Prince William Sound, and covers an approximate area of 858,268 acres of land, upon which are located the towns and settlements of Eyak, Orca, Tahtetlahk, Ellamar, Valdez, Fort Lisicum, Einiklik, Chenaga, Nutchek, and Latouche, and certain reservations for military purposes. As these lands are unsurveyed, it is impossible to state the area claimed or held in private occupation, but it is known that quite a number of such claims exist, and it is also a fact that a number of transportation companies have taken steps to obtain rights of way through these lands, since they furnish the most feasible routes from the southern coast to the interior of Alaska. A number of islands in Prince William Sound which are to be included in this national forest are used for the propagation of foxes, and have been reserved from entry under the homestead laws.

As touching the question as to the advisability of this reservation, attention is called to the facts shown by the report of Mr. W. A. Langille, the forest officer who investigated the conditions at the suggestion of the Forester—

Mr. VERTREES. Pardon me. He was one of your people in the Forest Service?

Mr. PINCHOT. Yes, sir. [Continuing reading:]

that a national forest is not needed to conserve the water supply or for protection against forest fires; that the timber on these lands is neither plentiful nor valuable.

Senator SUTHERLAND. That is a pretty long statement. It is already in the record. Do you think it is necessary that you have the witness reread it to the committee?

Mr. VERTREES. I think the suggestion will save time.

Senator SUTHERLAND. Does he not set out there the reasons why he opposed it, based upon a report of one of the forest officers?

Mr. PINCHOT. I have not read through this letter and am not familiar with it.

Mr. VERTREES. You are not familiar with it?

Mr. PINCHOT. No, sir.

Mr. VERTREES. Suppose you read down the latter part, a few lines on page 1148, in which he sets forth the advisability of creating a national forest. I would like to get those few lines before the committee, as they are notes from Mr. Langille.

Mr. PINCHOT (reading):

As to the advisability of creating the national forest now under consideration, Mr. Langille concludes his report with the suggestion that—

"While the amount of timber cut is comparatively small, and under the Alaska Code can be checked at any time, there are no provisions for forest care, and the writer strongly favors the passage of a law placing Alaskan forests under foresters with regulations for timber cutting without withdrawing the lands from settlement, especially in regions where the resources are entirely undeveloped and might be retarded by their reservation."

Mr. VERTREES. Now is it not a fact that at the time that reservation was established it did not include what is known as the "Cunningham lands?"

Mr. PINCHOT. At this time it did not.

Mr. VERTREES. And by what proclamation were they included?

Mr. PINCHOT. They were included, as I have already testified, by the proclamation signed February 27, I think.

Mr. VERTREES. February 23.

Mr. PINCHOT. February 23, 1909.

Mr. VERTREES. And then for the first time were the Cunningham lands or the Kattalla coal fields included in the forest reserve?

Mr. PINCHOT. Yes, sir; that is my impression.

Mr. VERTREES. And at that time Mr. Ballinger was a private citizen. He was not in office at all?

Mr. PINCHOT. He was.

Mr. VERTREES. My attention is called to your statement on page 1147 of your evidence, which I will ask you to refer to.

Mr. PINCHOT. Page 1147?

Mr. VERTREES. Yes, sir. It appears there that this question was asked you about the fourth or fifth line from the top.

Mr. PEPPER. The file, Mr. Chairman, has been produced at our call and I will offer it in evidence without reading it. It contains the dates and letter of protest referred to.

The CHAIRMAN. In all the three instances?

Mr. PEPPER. In all the three instances; yes, sir.

The CHAIRMAN. Very well, if no objection is made they will be received in evidence.

Is that not an error, or mistake I suppose I should call it?

Mr. PINCHOT. Let me read it over again, Mr. Vertrees.

Mr. VERTREES. Yes, sir.

Mr. PINCHOT. I am not clear whether it is or not.

Mr. VERTREES. I will ask you this question to make the fact clear. Did Mr. Ballinger ever make more than the one report set out there, dated April 24, 1907?

Mr. PINCHOT. Not to my knowledge.

Mr. VERTREES. Did he protest at any other time?

Mr. PINCHOT. Yes, sir; he protested at another time.

Mr. VERTREES. As to the Alaska—

Mr. PINCHOT. Yes.

Mr. VERTREES. Where is that?

Mr. PINCHOT. There was a meeting held in the office of the Secretary of the Interior at which Mr. Ballinger was present, and I was present, and I think Mr. Woodruff, in which he protested by word of mouth.

Mr. VERTREES. Verbal; but I speak of official action.

Mr. PINCHOT. None in writing that I know.

Mr. PEPPER. With the chairman's consent I ought to say if there is any obscurity in the matter you are referring to it is due to my statement and not to Mr. Pinchot's. I can only say there was no intention to say there was not a protest. I think it is only fair to say

that if there was any obscurity it is in what I said, and not in the question that I asked.

Mr. VERTREES. Do you not think there is?

Mr. PEPPER. I think this is true. It reads this way:

Mr. PINCHOT. The first was, I think, in July, 1907, Senator. The proclamations I believe, are here and the dates can easily be verified.

Mr. PEPPER. The file, Mr. Chairman, has been produced at our call and I will offer it in evidence without reading it. It contains the dates and letter of protest referred to.

The CHAIRMAN. In all the three instances?

Mr. PEPPER. In all the three instances; yes, sir.

I did not mean there were letters of protest but only one letter of protest, and this contains the file as to the three instances.

Mr. VERTREES. That gets at what I wish.

Mr. DENBY. The conference to which you refer was the one you have testified at page 1146—the conference at the Land Office?

Mr. PINCHOT. Yes.

Mr. VERTREES. That protest of Mr. Ballinger that you spoke of was as to the first proclamation?

Mr. PINCHOT. After the first proclamation; yes, sir.

Mr. VERTREES. So that that protest was embodied in writing in the protest of April 24, 1907?

Mr. PINCHOT. It was a protest on the same subject.

Mr. VERTREES. And that was the first creation—

Mr. PINCHOT. Both of these protests antedated the proclamation.

Mr. VERTREES. Then there was none, so far as you know, as to the others?

Mr. PINCHOT. None so far as I know as to the others.

Mr. VERTREES. Then, as far as the one including these coal lands and the Cunningham group is concerned, Mr. Ballinger was not in office at that time?

Mr. PINCHOT. Mr. Ballinger was not in office at that time.

Mr. VERTREES. State, then, why you reason that as a matter against Mr. Ballinger. What was the inference that you have drawn from it?

Mr. PINCHOT. I have already said that this protest against the creation of the Chugach National Forest is to my mind one of the things which indicates Mr. Ballinger's hostile attitude toward conservation.

Mr. VERTREES. Don't you think it due to Mr. Ballinger for you to say that here the protest is based on special reasons pertaining to Alaska and not the general question?

Mr. PINCHOT. I have not read the letter.

Mr. VERTREES. And that he does not state the specific reasons?

Mr. PINCHOT. You must not ask me to testify to that until I have read it.

Mr. VERTREES. Don't you think it would have been fair to Mr. Ballinger for you to have read that letter before you brought it here for an unfavorable inference to be drawn against him by it?

Mr. PINCHOT. My statement against Mr. Ballinger in relation to the Chugach National Forest is based upon the interview I had with him in Secretary Garfield's office, his protest at that time, and at that time I consider his actions toward the national forest were hostile to what we have since come to call conservation, and I still consider it so.

Mr. VERTREES. I am not asking you about that. I am asking you about what you have done here. What you have done here is to

bring this written protest of Mr. Ballinger and present it to this committee as evidence of what you have been pleased to call his hostility to conservation.

Mr. PINCHOT. I will ask you to recall that that letter was in the hands of the committee, that it could be seen only by counsel and not by any of us, and I had never seen it until after it was presented and printed in the testimony.

Mr. VERTREES. Is it not in the book we call Senate Document 248?

Mr. PINCHOT. Not that I know.

Mr. VERTREES. You saw it before you testified, did you not?

Mr. PINCHOT. To-day?

Mr. VERTREES. No; the first testimony.

Mr. PINCHOT. No.

Mr. VERTREES. You saw that letter?

Mr. PINCHOT. No, sir.

Mr. VERTREES. You never saw it before you testified?

Mr. PINCHOT. I have never seen the letter.

Mr. VERTREES. Did you not introduce it in your evidence?

Mr. PINCHOT. Mr. Pepper introduced it.

Mr. PEPPER. I think it is proper that Mr. Vertrees should be reminded that access to the records produced on call was strictly limited by the committee to the counsel in the case, and that we were not at liberty to make copies, and the only thing we could do in introducing all the evidence bearing on the relation between Mr. Pinchot and Mr. Ballinger was to introduce every document I could find. I spread it on the record at the proper time, but did not take time to read what was printed there. Mr. Pinchot did not and could not see it.

Mr. VERTREES. I have never understood that there would be any question of the imposition of secrecy as to official documents of this character—reports made by one public officer to other public officers.

Mr. PEPPER. If Mr. Vertrees's interpretation is the correct one, I shall be very glad to know it, because I have been under the very great disadvantage of Mr. Smyth and myself going to the records, looking them through, and being under the difficulty of not making copies, and then reporting to our clients the best we could the substance of it without going before the committee.

Mr. BRANDEIS. I desire to make a request for a modification of that order. It has been extremely burdensome to us and has hampered us very much in the presentation of this case. We have not been allowed to have our clients and others who could aid us in the examination of these documents present, and it would not be permissible for us to call in a stenographer to make copies of such of the papers as seemed to us to be important and to require investigation in conference with our clients. I think what Mr. Vertrees has just brought out shows the great burden which has been imposed upon us, and I therefore ask that the committee consider a modification of that order.

The CHAIRMAN. It is out of order now. We are cross-examining this witness and the committee will consider that afterwards.

Mr. GRAHAM. At the proper time I shall move that this request be granted.

Mr. VERTREES. I wish, Mr. Chairman, to join in that request, and I also wish to say that I have not interpreted the rule of the committee that way. It so happened that I had not occasion to do it,

but certainly if I had come to examine the records here and found documents of that character I would have felt at liberty to speak to the gentleman I represent about it. Now, in view of the nature and character of my cross-examination and the statement of the witness that he has not read this paper, I would like, with the committee's permission, to have him read it over, because I wish to ask him some questions with respect to it.

The CHAIRMAN. Under those circumstances it would be proper to have him read it.

Mr. VERTREES. You can read it, but read it to yourself, Mr. Pinchot.

Mr. OLMSTED. There is no imposition of any obligation on the witness to read it unless he wishes to, is there?

Mr. VERTREES. I am trying to impose the obligation.

Mr. PINCHOT. Mr. Vertrees suggests that I read it to myself and not necessarily aloud.

Mr. VERTREES. I shall not afflict the committee with the reading of it.

Mr. GRAHAM. During the interim while the committee is not busy, would it be in order to move the motion?

The CHAIRMAN. No; we will consider that matter in executive session.

Mr. GRAHAM. I insist on it being taken up at this time in open session, although it is to be taken up in executive session. It is a matter that the public should know about, and I think it should come up in open session.

Senator FLINT. I have some well-defined views with regard to documents that have been sent up here under this general call being submitted to anyone but counsel in the case. We know there are many of these documents that should not be made public, involving the great interests of the Government, and until the committee has passed upon the question whether the documents shall be given out I shall certainly protest against it.

The CHAIRMAN. This matter is entirely out of order now. We have this witness here and are cross-examining him. We will not take up this question now.

Mr. GRAHAM. I want my answer to go with Mr. Flint's remark. If the chairman will bear with me, the attorney who represents the Government in a sense here, at least who represents the department, conducted an examination on lines so essentially different from that position, I do not see how your position can be maintained.

Senator PURCELL. He is being interrogated on this same document, which is privileged in its nature.

Senator FLINT. It is in the record now.

Senator PURCELL. I know it is in the record now, but he intends to ask him questions concerning that document which he must make public by answering.

The CHAIRMAN. It is entered in the record here.

Senator PURCELL. He has not had any time to read it over. He has not read it over.

Senator FLINT. He is at perfect liberty to. What Mr. Graham is asking for, as I understand, is that other documents, which the committee have not seen and which have been submitted as confidential to counsel, shall be turned over to the clients of these counsel to examine.

Now, I do not think that is proper until the committee passes on whether these documents are public or not.

Senator PURCELL. If he is to be interrogated concerning them, I think it is proper for him to have a chance to see them some time before.

The CHAIRMAN. That does not relate to this case now, and that is why I suggested that this other request, not relating to the matter now, be postponed until we get through with this witness.

Mr. MADISON. No doubt this examination is assisting Mr. Pinchot very much in obtaining an intelligent comprehension of the paper he is reading. He will be in a fine situation for cross-examination.

Mr. GRAHAM. It is hardly interesting enough to attract anybody's attention. The cross-examination by Mr. Vertrees was very drastic and was based on the theory that the witness should have known this before it was published, and Mr. Vertrees is clearly of the opinion that he should have, and he insinuates in a very modified way that he did know what was in it before it was published. I am inclined to agree with Mr. Vertrees that he should have known it, or should have had an opportunity to know, and I agree with his counsel in a matter of that sort that he should have the right to get copies of any documents which afterwards are to go into the record as this one did go. I see no reason against it.

Mr. DENBY. It ought to be stated in this connection, Mr. Graham, that action of the committee was taken in consultation with the attorneys.

Mr. BRANDEIS. Oh, no; I beg your pardon, Mr. Denby. We were not present; it was done in executive session and was reported to us.

Senator PURCELL. You were informed, though.

Mr. BRANDEIS. Yes, sir; after it was done.

Mr. DENBY. You were informed, and acquiesced in the propriety and advisability of that course.

Mr. BRANDEIS. Not exactly that. It seemed to us very proper that no documents should be made public about which there was any question where it might affect the public interest, and I think now—

Mr. DENBY. Were you in any doubt as to the course of the committee, or did you protest against the course of the committee, or did you not give us to understand that you agreed that this was the proper way?

Mr. BRANDEIS. I did not protest against the course of the committee, because I never protest against the course of the committee. I was greatly hampered in the investigation, for the two reasons, that in the first place I was not permitted to even make a copy to show my client.

Mr. OLMTED. You had any memorandum you desired. I saw you making it.

Mr. BRANDEIS. I saw some memorandum and was careful not to copy it. I was very much embarrassed in making memorandums.

Mr. DENBY. You did not seem embarrassed when I saw you working at it.

Mr. BRANDEIS. I was not embarrassed by anything I did or was proper to be done; but I say there is an immense mass of documents, and the writing out of them would take hours, these papers, which for a man to show to his client would take hours when they could be disposed of in a few moments. That was a very embarrassing thing

to require, but when you bear in mind that in making a memorandum which is very valuable or to make a memorandum which is very consuming of time as to things which we wanted to ask somebody, we could not get the information.

Mr. DENBY. I do not wish to have any false impression go out. My understanding of this action of the committee was approved by the attorneys fully and completely, and I do not recall that you ever made any protest one way or the other. I would like you to state now whether or not you have any fault to find with the committee.

Mr. BRANDEIS. I have no fault to find with the committee, but I ask now for a modification of the order by the committee. It is not in criticism.

Mr. DENBY. I thought your statement would give color to the idea that it was a serious criticism of the committee.

Mr. BRANDEIS. If I did, I certainly was misunderstood.

Mr. OLMSTED. So far as this particular letter is concerned, if it was not seen by the witness it was not the fault of the committee. Counsel had it and offered it in evidence. It has been published in the record since last Tuesday.

Mr. BRANDEIS. I did not rise on any question of that kind. It was only in this connection, because the matter had been brought up. I thought it was an illustration of the difficulty under which we had been laboring. It was not criticism.

The CHAIRMAN. Have you read the letter?

Mr. PINCHOT. Yes, sir; I have read the letter.

The CHAIRMAN. Then the cross-examination may proceed.

Mr. VERTREES. Now, is it not a fact that you knew of this letter of April 24, 1907, at the time it was written; that is, within a day or two following? Is not that true?

Mr. PINCHOT. I do not remember whether I knew of the letter or not. I did not know about the interview.

Mr. VERTREES. This is true that on this hearing, a few days ago you presented and filed as part of your evidence a copy of it, did you not?

Mr. PINCHOT. Yes; Mr. Pepper did.

Mr. VERTREES. Well, you did, did you not? As a witness it goes in as a part of your evidence.

Mr. PINCHOT. I do not recall whether I offered it or whether Mr. Pepper did.

Mr. PEPPER. I did.

Mr. VERTREES. You had not read it, as I understand you, before you offered it?

Mr. PINCHOT. The regulation of the committee prevented me reading it. Do you mean for me to read it?

Mr. VERTREES. So it was because of the regulation of the committee that you did not read the paper that you presented to the committee?

Mr. PINCHOT. It was because it was impossible for me, under the regulations of the committee, to read the paper that I did not read it.

Mr. VERTREES. You presented it, as I understand you, as evidence to prove Mr. Ballinger's hostile attitude toward conservation?

Mr. PINCHOT. Mr. Pepper introduced the letter, as so much other evidence has been introduced, precisely as other evidence has been introduced, for the purpose of showing things that counsel believes the evidence would show.

Mr. VERTREES. I asked you just a while ago, did I not, why you presented this letter? Now, it was presented by you as a witness, was it not?

Mr. PINCHOT. It was presented by my counsel, Mr. Vertrees, as I have already stated.

Mr. PEPPER. I do not like to interrupt Mr. Vertrees, but I do not think there ought to be any misunderstanding about this point. The fact is, and I should like to have it known, that I did not submit any matters in the Chugach file to Mr. Pinchot before he went on the stand, because I believed that if I did so I would be violating the regulation of the committee. I am not protesting or objecting, but I am simply stating that fact. I will state, further, that Mr. Pinchot having testified to an oral interview at which Mr. Ballinger made a protest, and his having knowledge of the fact that thereafter Mr. Ballinger had put himself on record in a letter on that same subject, I introduced the record in evidence as the best evidence of whatever Mr. Ballinger's position in the matter might be. I have not asked anybody as yet to draw any inference from it. It is simply in the record for such use as counsel see fit to make of it in argument.

Mr. McCALL. I think the statement of counsel should be sufficient on that point. He introduced it under what he supposed was a rule of secrecy, and he did not let his client read it.

Mr. PEPPER. Precisely.

The CHAIRMAN. There is no question about that. Let me ask you if I understand it correctly. Did this conversation with the Secretary about conservation or about this reservation here transpire before this letter of protest of the Secretary was written?

Mr. PEPPER. They were in connection with the same protest. There was an oral interview and a letter to Mr. Pinchot.

The CHAIRMAN. Was the oral interview before the letter?

Mr. PINCHOT. I can only say that I presume it was; but I do not know.

The CHAIRMAN. That is your impression?

Mr. PINCHOT. Yes, sir; that is my impression.

Mr. PEPPER. They were at or about the same time. He having testified to an oral interview and I having knowledge of the official file, I thought, in candor to the committee, the file should be put in as part of his case; but I did not show it to Mr. Pinchot, for the reasons I have stated.

The CHAIRMAN. Your explanation is sufficient. As I understand it, Mr. Pinchot, this interview occurred probably before the letter was written.

Mr. PINCHOT. I think the chances are, but I can not testify.

The CHAIRMAN. Before the letter of protest.

Mr. VERTREES. On page 1146 of your evidence I find this statement:

I believe at the time that the first proclamation was sent over to the Land Office, or shortly thereafter, Mr. Ballinger protested to Secretary Garfield against the creation of that forest, and I recall that there was held a conference in Secretary Garfield's office between Secretary Garfield, Mr. Ballinger, I think Mr. Woodruff, though I am not sure, and myself, at which the whole question was gone over as to whether or not it was desirable to create that forest.

Mr. PINCHOT. Yes.

Mr. VERTREES. Do you say there that he did protest to Secretary Garfield? Now is this not the document you refer to when you say you remember he protested?

Mr. PINCHOT. I refer to the conversation.

Mr. VERTREES. This paper was presented when you were testifying, and now without regard as to the facts stated by your counsel, which are entirely satisfactory to me, this is true, is it not, that when you presented it, you presented it as evidence, and did not state to the committee that you did not know its contents; that you had had no opportunity to read or to know what it was and presented it without that? Did you indicate to the committee in any way that such were the facts when you presented it as evidence bearing on the question?

Mr. PEPPER. I really can not go with Mr. Vertrees in this matter. It seems to me that such a question, in view of my statement, is not exactly what I have a right to expect. I never asked Mr. Pinchot the question whether he had seen the letter. I took it for granted that it was understood what the status of documents were introduced by counsel, is in protest or call. What is true of the letter in question is true of every letter that I took the responsibility of introducing. When those letters had been produced in response to calls made by counsel, not one of them had I——

Senator SUTHERLAND. I do not think we ought to take up any further time with this matter. It is perfectly clear that what Mr. Pepper speaks about is correct.

Mr. VERTREES. I wish to make this statement to begin with. I hope that Mr. Pepper will understand that I have not intended in any wise to reflect in the slightest upon the propriety of his actions or the correctness of his statement; and to the suggestion that the question should be withdrawn, if it is the sense of the committee that I should withdraw it, I will do so. But I will say that I do not think it should be withdrawn, and this is my reason:

Here is a witness on the stand who presents a document as a witness and has it printed as a part of his testimony, a document signed by the official whom I have the honor to represent.

Senator SUTHERLAND. Let me interrupt you. As I understand the matter the witness did not produce the document. The document was produced by his counsel.

Mr. VERTREES. But it is made a part of his testimony.

Senator SUTHERLAND. It is made a part of the record in the case.

Mr. VERTREES. I think I have the right——

Senator SUTHERLAND. Let me call your attention to this. What occurred was this, Mr. Pinchot having testified to this conversation——

Mr. MADISON. What page is that?

Senator SUTHERLAND. Page 1147.

The file, Mr. Chairman, has been produced at our call and I will offer it in evidence without reading it. It contains the dates and letter of protest referred to.

The chairman asked some questions to which Mr. Pepper replied, and the chairman announced that there was no objection to the paper being received in evidence, and it was so received. Now, it was not introduced by Mr. Pinchot, but by his counsel.

The CHAIRMAN. Allow me to make a suggestion. We want to get along as peaceably as possible. The letter is now in evidence. Mr.

Pinchot has read it. Can you not examine him upon the letter, now that he has read it, and it will relieve the situation?

Mr. VERTREES. I merely make the statement that I shall again disclaim any sort of reflection on Mr. Pepper. I wish to state that I have never had the pleasure of being confronted by counsel who has conducted the case with more courtesy than has Mr. Pepper, and I can only repeat that I had not the slightest disposition of reflecting on him.

The CHAIRMAN. I hope, Mr. Vertrees, you will not think that the chairman has reflected upon your conduct in making this suggestion.

Mr. VERTREES. Mr. Chairman, I think you can bear testimony to this fact, that every suggestion that the committee has made to me I have yielded to, except one. That was where I felt obliged to insist upon my rights.

Mr. DENBY. Now, it is proper for counsel to state that they have no reflection upon the committee.

Mr. PEPPER. I move that this is the sense of counsel.

Mr. VERTREES. Mr. Pinchot you have read it now?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And you told me a while ago, as I thought, that it was presented by somebody, your counsel, for the purpose of showing Mr. Ballinger's hostile attitude toward conservation.

Mr. PINCHOT. I was very careful not to make any such statement.

Mr. VERTREES. You were?

Mr. PINCHOT. Yes.

Mr. VERTREES. Well, the record will show.

Mr. PINCHOT. As I recall what I said was that the conversation that I detailed, which I had referred to was referred to as indicating Mr. Ballinger's attitude toward conservation.

Mr. VERTREES. Now, you have read it.

Mr. PINCHOT. I have read it.

Mr. VERTREES. I will ask you if it does indicate hostility on the part of Mr. Ballinger to the general principle of conservation?

Mr. PINCHOT. In my judgment it does.

Mr. VERTREES. I will ask you if it is not restricted to the special reasons why there should not be a reservation in Alaska, and predicated upon the report of one of your forest officers.

Mr. PINCHOT. It is restricted to the cases in Alaska, and it is predicated in part on the report of one of the forest officers.

Mr. VERTREES. Point out the line and statement where he is opposed to conservation in general.

Mr. PINCHOT. Yes, sir. In order that the letter shall fall into its proper place in the conservation story, it is necessary to say that at that time there was a strong feeling that national forests should be created in Alaska prior to the advancement or settlement, so that the opposition which had arisen so largely from interested or from mistaken persons in the case of other national forests should be presented in the case of Alaska. There was every reason as we thought why the forests should be created. We, meaning the officers of the Forest Service in Washington, and the letter does not, as I conceive, furnish sufficient reason why such a forest should not be created.

Mr. VERTREES. Do you think that is an answer to my question?

Mr. PINCHOT. I have not gotten through, Mr. Vertrees. There are a number of statements in the letter which I think were opposed to the policy of conservation. I can take them up in order.

Mr. VERTREES. Just one good plain one will do me.

Mr. PINCHOT. You have got to take them together, Mr. Vertrees, and they have to be explained.

Mr. VERTREES. You see the thought I presented to your mind was this, that the argument was directed alone at the creation of a national forest in Alaska.

Mr. PINCHOT. Yes.

Mr. VERTREES. And stating only the special reasons why one should not be created there?

Mr. PINCHOT. Yes.

Mr. VERTREES. I then asked you to point out one single line in this long letter which indicates hostility on his part to the general doctrine of conservation, or the establishment of a national forest where conditions such as he says prevailed in Alaska did not exist.

Mr. PINCHOT. You asked me the first half of it.

Mr. VERTREES. Then I will put the other half in now. Now answer it!

Mr. PINCHOT. When a letter taken together opposes a general policy, it is not by any means always clear that a single clear-cut statement could be picked out of that letter which reflects accurately the general effect; but with your permission I will now proceed to discuss the general effect given by Mr. Ballinger to the creation of the national forest in Alaska.

Mr. VERTREES. You can do so if you wish; I can not prevent it. All I wanted you to do was to tell me one thing there that made war on the general doctrine of conservation. You testified the reasons you stated awhile ago that the letter was presented.

Mr. PINCHOT. The opposition which the letter contains to the creation of a national forest in Alaska, and for reasons given by Mr. Ballinger, in my judgment, is an answer to your question.

Mr. VERTREES. That is an answer to my question?

Mr. PINCHOT. Yes.

Mr. VERTREES. Then we understand each other. Now, state again, what you have already stated, what a ranger station is?

Mr. PINCHOT. A ranger station is an area of land in or near a national forest withdrawn by executive confirmation from all forms of entry or disposal, in order that it shall serve as a base or headquarters for a ranger.

Mr. VERTREES. Your idea is that when once a piece of land is reserved as a ranger station that then there can not be any entry of mineral claims on that land.

Mr. PINCHOT. Under the procedure established by Secretary Hitchcock and Secretary Garfield, there could be none.

Mr. VERTREES. Do you mean the procedure under the rule they have adopted? What is the difference between an administrative site and a ranger station; any?

Mr. PINCHOT. An administrative site may include a forest nursery, or some other thing, as well as ranger stations.

Mr. VERTREES. Now, how many ranger stations did you have in or near the national forest in the States?

Mr. PINCHOT. I have forgotten the exact figures. Nearly as I can recall we had about one to every 25,000 acres, or, I think, about 4,000.

Mr. VERTREES. Did you not have, to speak correctly, 4,276?

Mr. PINCHOT. I do not remember exactly.

Mr. VERTREES. Those are the figures that have been given to me. Are they approximately correct?

Mr. PINCHOT. They are approximately correct.

Mr. VERTREES. And embracing 621,878 acres?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. How many rangers did you have?

Mr. PINCHOT. About 2,000.

Mr. VERTREES. So you had about two sites for every ranger?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, did you not, and did not the department, before Mr. Ballinger came in, use that as an excuse for withdrawing power sites along the streams?

Mr. PINCHOT. I have already testified to that.

Mr. VERTREES. That is a fact, is it not?

Mr. PINCHOT. I am not sure that you could call it an excuse. We have asked for the withdrawal of administrative sites for the purpose of protecting power sites in the national forests.

Mr. VERTREES. It was understood that you had no power, no authority, to withdraw power sites as such.

Mr. PINCHOT. The Forest Service, of course, had not. It developed afterwards—

Mr. VERTREES. I mean the department.

Mr. PINCHOT. It developed afterwards that the Department of the Interior had.

Mr. VERTREES. You mean that it grew later?

Mr. PINCHOT. No; I do not mean that.

Mr. VERTREES. How did it develop that it had?

Mr. PINCHOT. In the general progress of the conservation policy it was discovered—I do not remember how—that it was not fair.

Mr. VERTREES. What statute or decision so stated?

Mr. PINCHOT. My understanding is that the Constitution of the United States said so.

Mr. VERTREES. The Constitution says so. That was there all the time, was it not?

Mr. PINCHOT. Yes; but I am naturally, Mr. Chairman, not capable of discussing constitutional questions with the counsel.

Mr. VERTREES. So as you understood it, it was by virtue of the Constitution of the United States that they subsequently found out that they had power to withdraw power sites in terms, and it was not by virtue of any statute or any decision. Is that the way you understand it?

Mr. PINCHOT. That is my understanding of it, as I have already quoted the words of the chairman. This was a power site which had been recognized from the beginning of our Government, and it has never been questioned until recently.

Mr. VERTREES. Now, it is a fact that large areas of land were withdrawn from entry under the ranger station claim.

Mr. PINCHOT. Are you referring to power-site withdrawals?

Mr. VERTREES. Yes; to power-site withdrawals.

Mr. PINCHOT. The total area there was relatively small.

Mr. VERTREES. But it is also true that very large areas are withdrawn which do not bear on the withdrawal, the object being to protect and save the power sites.

Mr. PINCHOT. Do you mean by Secretary Garfield?

Mr. VERTREES. Secretary Garfield; yes.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. You and he were cooperating heartily in that, were you not?

Mr. PINCHOT. We were.

Mr. VERTREES. How many million acres were withdrawn that way?

Mr. PINCHOT. My recollection is about three and a half million.

Mr. VERTREES. Three and a half million acres?

Mr. PINCHOT. Yes, sir. But, Mr. Vertrees, may I interrupt you there?

Mr. VERTREES. Surely.

Mr. PINCHOT. In order to say that not all of the lands covered by those figures are in reality withdrawn. Those figures include considerable areas of private land inside the outer boundaries of the withdrawals, which were, in terms, excepted, as I understand it.

Mr. VERTREES. But there is something like 2,000,000 or 1,834,000 withdrawn, that were supposed to be necessary to be withdrawn in order to cover and save power sites, was there not?

Mr. PINCHOT. You are referring now to withdrawals made under the supervisory power.

Mr. VERTREES. Yes, sir.

Mr. PINCHOT. The exception that I have just made applies to them also.

Mr. VERTREES. Now, was it not well known when these large withdrawals were made that they were that large, and included vast areas that could not by any possibility be used as power sites, but that as a matter of abundant precaution it was done for the purpose of saving the power sites?

Mr. PINCHOT. It was done because the information at hand was not sufficiently accurate, as I understand it, to permit a very careful definition of the area needed.

Mr. VERTREES. It was done upon insufficient data, inaccurate information.

Mr. PINCHOT. It was done by the use of the best data available in the Government.

Mr. VERTREES. But that best, as you understood it, was insufficient and unreliable.

Mr. PINCHOT. No, sir; that best, as I understood it, was insufficient to make final detailed withdrawals. It was abundant——

Mr. VERTREES. Was it gotten from the Geological Survey?

Mr. PINCHOT. It came through the Reclamation Service. How far they used the data available in the Geological Survey reports, I am not prepared to testify.

Mr. VERTREES. You do not know, but you do concede that it was used for the purpose of covering and protecting power sites.

Mr. PINCHOT. Under the supervisory power.

Mr. VERTREES. Under the supervisory power.

Mr. PINCHOT. That was my understanding.

Mr. VERTREES. And meant to do it with the knowledge that it included vast areas that really could not by any possibility be used for power sites?

Mr. PINCHOT. That is an unfair inference, Mr. Vertrees. The plan, as I understand it, was to withdraw the areas which would certainly

include the power sites, and then as rapidly as the unnecessary land could be located to throw that out.

Mr. VERTREES. I understood you to state, on page 1165 of your testimony, as follows:

Mr. PINCHOT. Senator, I am not familiar with the detail of it, and was not concerned with the detail at the time, the matter being entirely in the charge of some one else. I was informed, and have since reason to believe that those withdrawals were made largely because they were made from the land-office maps from which the actual location of streams was not definitely known, and therefore they were made big enough to include the streams with certainty—

Mr. PINCHOT. That is accurate.

Mr. VERTREES (reading):

with the intention of proceeding at once to reduce them as rapidly as further information showed just exactly what was needed.

Mr. PINCHOT. Precisely.

Mr. VERTREES (reading):

They intended also—if you will allow me for a moment—they included areas of land on which were valid claims, and this 298,000 acres may or may not include a very considerable body of land, etc.

On page 1157 of your testimony did you not testify:

Mr. PEPPER. As I understand it, then, you utilized the ranger-station withdrawal form for the purpose of preserving or conserving temporarily a key to the water-power sites within the limits of the national forest?

Mr. PINCHOT. We did; and we did that because at the time it was supposed that that was the only form that the withdrawals could take. Later on it developed that the withdrawals could be made directly for water-power purposes, and before March 4, 1909, all the ranger-station withdrawals were converted into regular water-power withdrawals.

That is correct, is it?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. So that that statement was used with the knowledge that it was based upon inaccurate data.

Mr. PINCHOT. Mr. Vertrees, you are getting the two things mixed up, I think.

Mr. VERTREES. Perhaps so.

Mr. PINCHOT. You are mixing the administrative sites with an executive order and supervisory power.

Mr. VERTREES. My question related to them.

Mr. PINCHOT. And not to the ranger stations?

Mr. VERTREES. And not to the ranger stations.

Mr. PINCHOT. Now, will you kindly repeat the question?

Mr. VERTREES. Now, I say, that plan or system was used in order, is you conceived it, to protect the power sites.

Mr. PINCHOT. You mean what Garfield did?

Mr. VERTREES. Yes, sir; what Garfield did.

Mr. PINCHOT. Yes sir; what he did was to protect the water-power sites.

Mr. VERTREES. But with full knowledge that vast areas which were withdrawn far exceeded what was necessary, and that you would subsequently restore the lands, as you could restore them, and so many as you could restore to entry?

Mr. PINCHOT. Just as soon as they could find out what was not needed they proposed to restore it.

Mr. VERTREES. The point I want to direct your mind to was that it was understood that large areas were not made, that were included in the withdrawals.

Mr. PINCHOT. Yes, sir; but it was not known what those areas were.

Mr. VERTREES. But still they were known to be very large?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And did not Mr. Newell's report show probably nine-tenths of it?

Mr. PINCHOT. I do not know.

Mr. VERTREES. But you do concede that very large proportions were included that it was understood would never be needed?

Mr. PINCHOT. They were. I do not want to have you draw from that statement the inference which your remarks would lead to, that there was anything either careless or wrong in including those areas. They were drawn in excess of what would probably be needed, not because they wanted to put in more than was necessary, but because it was not known at the time what was necessary and what was not, and therefore—

Mr. VERTREES. To be sure.

Mr. PINCHOT. And out of abundant precaution the withdrawals were made large with the intention of throwing out, not of restoring everything, but of cutting out from the withdrawals, as rapidly as further information could be secured, what was shown not to be needed.

Mr. VERTREES. But were they not extraordinarily large—that is, you were under the expectation that nine-tenths of it would be restored to entry?

Mr. PINCHOT. I have never heard of any such figures.

Mr. VERTREES. Well, give us your idea what the expectation was.

Mr. PINCHOT. I have already testified that I do not remember the detail about that subject.

Mr. VERTREES. Can you not give some idea about it?

Mr. PINCHOT. I do not know why you should want me to guess.

Mr. VERTREES. Would it be a pure guess?

Mr. PINCHOT. It would be a pure guess.

Mr. VERTREES. You have no idea. As far as you know, you know that it was entirely more than was necessary.

Mr. PINCHOT. I certainly did not know it was more than was necessary.

Mr. VERTREES. You believed it was.

Mr. PINCHOT. I did not believe it was. Now let me make that clear to you if I can. It was necessary at the time to withdraw larger areas than were actually valuable for power, because it was not known accurately what was necessary and what was not. Do you get that. Mr. Vertrees?

Mr. VERTREES. I do not think I caught that.

Mr. PINCHOT. The withdrawals in the form in which they were made were necessary for the reason that it was not known accurately what was necessary and what was not—the thing that was known was that it was necessary to include all the land needed to protect water-power sites. Now, in view of that, it is not an accurate description to say that more land was withdrawn than was known to be necessary. It was necessary to make the withdrawals in the form in which they were made.

Mr. VERTREES. Did you not also adopt the policy of withdrawing what you called ranger stations wherever you saw there was water power, so as to hold the key to the situation and prevent anybody from getting them?

Mr. PINCHOT. We did; in accordance with my testimony.

Mr. VERTREES. Without regard to the absolute need for ranger purposes at all?

Mr. PINCHOT. Many so-called "ranger stations" were withdrawn specifically to protect the power, and not because they were needed for rangers.

Mr. VERTREES. That is to say, they were withdrawn not for the purpose stated, but for an altogether different purpose?

Mr. PINCHOT. For the protection of power.

Mr. VERTREES. And that was the policy of Mr. Garfield and yourself with reference to that?

Mr. PINCHOT. Yes, sir; and of the President and Secretary Wilson.

Mr. VERTREES. You all agreed on that. Now, when Mr. Ballinger came in as Secretary his view of the situation was that the withdrawals, on the line you have been proceeding, were illegal, was it not?

Mr. PINCHOT. Which withdrawal do you refer to?

Mr. VERTREES. Both classes.

Mr. PINCHOT. I am so informed.

Mr. VERTREES. You understood that that was his position?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And he came in with those views when he came into office as Secretary?

Mr. PINCHOT. I have no personal knowledge of that. I suppose so.

Mr. VERTREES. There was no secret about it. His position was well known and well understood, was it not?

Mr. PINCHOT. I do not know what he felt about the power withdrawals when he came into office, no sir; not until he developed that view.

Mr. VERTREES. You have read the act, of course, under which you were all proceeding, and I want to call your attention to this section of it, and to ask you if this was not the section that Mr. Ballinger in all those controversies planted himself on—and I read from the book called "The Use Book," at page 217, being the act of June 4, 1897, Thirtieth Statutes, page 11:

RESTORATION OF MINERAL OR AGRICULTURAL LANDS TO PUBLIC DOMAIN.

Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days' notice thereof, published in two papers of general circulation in the State or Territory wherein any forest reservation is situated, and near the said reservation, any public lands embraced within the limits of any forest reservation which, after due examination by personal inspection of a competent person appointed for that purpose by the Secretary of the Interior, shall be found better adapted for mining or for agricultural purposes than for forest usage may be restored to the public domain. And any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions herein contained.

Mr. PINCHOT. Yes, sir; that is the provision of the act of June 4, 1897.

Mr. VERTREES. That is the act that he considered controlled, and was not Mr. Ballinger's position this: That the mineral lands in these

reservations—certain lands known as mineral lands—should be subject to entry, notwithstanding any provisions that were contained in the act with reference to those other matters?

Mr. PINCHOT. That was his position so far as I recall, on account of the three letters that he wrote refusing to withdraw ranger stations.

Mr. VERTREES. And do you not know as a fact that he was so advised by his legal advisers?

Mr. PINCHOT. I do not know it as a fact. I simply know it from those letters.

Mr. VERTREES. Were you not informed that that was the fact?

Mr. PINCHOT. Even if I had been informed, I would not know it as a fact.

Mr. VERTREES. Now, Mr. Pinchot, do you regard that as an answer to my question? A little way back I asked you for facts, but at the same time I asked you specially for information.

Mr. PINCHOT. You asked me if I knew it as a fact.

Mr. VERTREES. I asked you if you were not informed.

Mr. PINCHOT. And I said I was.

Mr. VERTREES. And you added a question about fact which did not give me much satisfaction.

Mr. PINCHOT. I think the record will show that you asked me if I knew it was a fact.

Mr. VERTREES. I know that it would not, Mr. Pinchot.

The CHAIRMAN. To what page of the Use Book do you refer?

Mr. VERTREES. I read on page 217, under the head "Restoration of mineral lands."

Mr. PEPPER. With the permission of the committee I am going to ask Mr. Vertrees if he would mind interpreting the initial assumption in his question, that in referring to the act that he quoted "that that was the act that you all thought controlled." I think perhaps you ought to state to the witness—

Mr. VERTREES. He said it did.

Mr. PEPPER. Controlled what?

Mr. VERTREES. The forest reserve.

Mr. PEPPER. I thought you meant the control of the matter of the ranger stations, or for other purposes.

Mr. VERTREES. All matters of forest reservation. I asked him then if this was not a question that arose there that even so far as ranger stations were concerned, the contention of your department was that when it was withdrawn as a ranger station that it absolutely excluded any mineral entries.

Mr. PINCHOT. That was our contention.

Mr. VERTREES. That was your contention, whereas it was the contention of the Department of the Interior that as to whether mineral entries were not excluded because of the provisions of the act, that it should be done notwithstanding any provisions herein contained.

Mr. PINCHOT. That is my understanding.

Mr. VERTREES. So there was a controversy between the two departments and the lawyers of the two departments?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Over the interpretation of that statute?

Mr. PINCHOT. No, sir; it was distinctly not over the interpretation of that statute, Mr. Vertrees. It was as to whether the statute applied or not to ranger stations. Mr. Ballinger's contention was that

it did apply, and our contention was that the withdrawals were made under the supervisory power and had the effect of withdrawing the ranger stations from forest land, the principal condition being forest land.

Mr. VERTREES. That was a matter of interpretation at last, was it not?

Mr. PINCHOT. Not only of the act but of the Constitution.

Mr. VERTREES. Now, there was another question that arose in those six States as to the act of March 4, 1907.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Which provided thereafter no forest reserves should be created, nor should any additions be made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming except by act of Congress. Now, you assumed to withdraw or create them, if I may use that expression—perhaps withdraw is better—ranger stations in those States outside of the forest surveys.

Mr. PINCHOT. Ranger stations?

Mr. VERTREES. Yes.

Mr. PINCHOT. Our department did not, but it was done by the Department of the Interior at the request of the Secretary of Agriculture.

Mr. VERTREES. At the request of the Secretary of Agriculture. That is what I am getting at; and it was thought by Mr. Ballinger and his people after they had come in that that was unlawful because, in effect, it added to the reserve just as much.

Mr. PINCHOT. I understand that to have been their contention.

Mr. VERTREES. That was their contention. Certain of those questions are now pending before the Attorney-General, are they not, for decision?

Mr. PINCHOT. They have been pending since last May.

Mr. VERTREES. So they were submitted—those legal questions—last May.

Mr. PINCHOT. After the protest of the Department of Agriculture was made.

Mr. VERTREES. How many of those questions that I have mentioned were presented to him?

Mr. PINCHOT. Those two, and still another case. That is the matter to which I referred in my testimony, to the effect that if the creation of ranger stations in the 6 States had in effect increased the area of the national forests, it would have increased it about one one-hundredth or 1 per cent.

Mr. VERTREES. How many acres?

Mr. PINCHOT. Twenty thousand, I think.

Mr. VERTREES. Without regard to the question of whether 20,000 acres is 1 per cent or one-tenth of 1 per cent, the essential thing that I wanted to bring out by you was that there was a controversy—a difference of opinion—as to the power to do that thing.

Mr. PINCHOT. Certainly.

Mr. VERTREES. One side contending as a matter of law that you could not do it except by adding that much to the reserves unlawfully.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And you, upon your side, contending that that was not the cause and that you could withdraw ranger stations because it was necessary, and you had the right to do it.

Mr. PINCHOT. Because we had the right to do it, or for other reasons.

Mr. VERTREES. And those questions became debatable questions and were finally submitted to the Attorney-General, and really are now pending with him for decision.

Mr. PINCHOT. And have been pending there for nearly a year.

Mr. VERTREES. Now, why do you add that? You are not blaming Mr. Ballinger for that, are you?

Mr. PINCHOT. I am merely stating the facts.

Mr. VERTREES. But why do you state the fact?

Mr. PINCHOT. Because I think it is an essential fact in the case.

Mr. VERTREES. Is it not a fact that the Attorney-General, after the matter was submitted to him, sent the record back for further information, and that great delay was due to that fact, and the information was given?

Mr. PINCHOT. The information was given. How much delay there was I have forgotten.

Mr. VERTREES. But it happened. He did request further information?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. He sent it back to the department and the information was gotten up and sent to him?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. So that this delay that you speak of, at least in part, is to be ascribed to that fact?

Mr. PINCHOT. In small part.

Mr. VERTREES. You do not recollect how much, do you?

Mr. PINCHOT. I do not recollect accurately, but I think it was something like six weeks.

Mr. VERTREES. Next, on page 1191 of your testimony in the record. Mr. Pinchot, you state this:

Mr. PINCHOT. I will read a paragraph, the one next to the last and next before that in this letter of the President:

"Another instance in your conduct of the department which has been mentioned as indicative of your purpose to block the general plan of conservation of national resources is your refusal to carry out a contract made in the last administration between the Secretary of the Interior and the Secretary of Agriculture, by which the Agricultural Department delegated to the Forestry Bureau of the Agricultural Department the power and duty to conserve the forests on the Indian reservations and to expend under the control of the Forestry Bureau the money appropriated by Congress to be expended by the Indian Bureau for such conservation of Indian forests. Your declaration to carry out the contract was made necessary by a ruling of the comptroller whose ruling is final and without appeal even to the President, that such an arrangement is a delegation of responsibility and authority of expenditure of money which the appropriation by Congress for the Indian Bureau did not authorize."

Now, why did you introduce that as something against Mr. Ballinger, Mr. Pinchot?

Mr. PINCHOT. Because I think that is one of the cases in which he deceived the President.

Mr. VERTREES. Now, in what way did he deceive the President?

Mr. PINCHOT. By alleging as a reason for his action that the ruling of the comptroller did not exist.

Mr. VERTREES. Did he do that?

Mr. PINCHOT. I judge so from the inclusion of it in the President's letter.

Mr. VERTREES. You have read the book called "Senate Document No. 248," have you not?

Mr. PINCHOT. Most of it.

Mr. VERTREES. There is no reason why you would not have read it all, is there?

Mr. PINCHOT. None, except that it is so big.

Mr. VERTREES. Well, you read that part as to which you have testified, have you not?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, I am going to ask you to read some more of it. Perhaps this is some that you have not read before. In Mr. Ballinger's letter to the President—do you remember the date of Mr. Ballinger's original letter to the President?

Mr. PINCHOT. It is September 4. Are you looking for that, Mr. Vertrees?

Mr. VERTREES. On page 88 of Senate Document I am going to call your attention to what appears there. That is the conclusion of Mr. Ballinger's letter to the President to which we have just referred. Now, I will ask you to read on pages 88 and 89 and see if it does not appear as part of his statement to the President, beginning about the middle of the page, as follows:

I recall no further conversation, communication, or action respecting this matter until the receipt of correspondence which I herewith attach in its order:

Copy of telegram from Acting Secretary Pierce, dated Washington, D. C., July 10, 1909, to Secretary Ballinger, at Seattle, Wash.

Copy of letter, with inclosures enumerated therein, from Acting Secretary Pierce, dated Washington, D. C., July 10, 1909, to Secretary Ballinger, at Seattle, Wash.

Copy of telegram from Secretary Ballinger, dated Seattle, Wash., July 14, 1909, to Acting Secretary Pierce.

Copy of telegram from Secretary Ballinger, dated Seattle, Wash., July 15, 1909, to Acting Secretary Pierce.

Copy of opinion prepared by Assistant Attorney-General Lawler, dated July 17, 1909, from Acting Secretary Pierce to the Commissioner of Indian Affairs.

Copy of last page of letter from Commissioner of Indian Affairs R. G. Valentine to Secretary Ballinger, dated Washington, D. C., July 18, 1909. (No answer to this letter.)

Copy of telegram from Acting Secretary Pierce, dated Washington, D. C., July 16, 1909, to Secretary Ballinger, at Seattle, Wash. (No answer to this telegram.)

I have given this matter no special consideration, and, as you will see from the correspondence attached, action has been taken without any special direction by me.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES (continuing reading):

Inasmuch as Indian reservations are required to be supervised by superintendents of reservations, it is a question how far cooperation with another bureau can be made effective.

I am not disposed to favor a narrow construction of the law or of the agreement, but believe the position of Acting Secretary Pierce and Assistant Attorney-General Lawler in the particular case is well taken.

I have the honor to remain, yours, very respectfully,

R. A. BALLINGER, *Secretary.*

Now, is that not what Mr. Ballinger said to the President?

Mr. PINCHOT. That is part of it. I would like to read you some more.

Mr. VERTREES. Yes, sir; let us have it all.

Mr. PINCHOT. I should like to add to that.

Mr. VERTREES. What are you reading from?

Mr. PINCHOT. This is Mr. Ballinger's letter of November 15 to the President.

Mr. VERTREES. I am on the letter to——

Mr. PINCHOT. I would like to read this just the same.

Mr. VERTREES. Very well, you can read that.

Mr. PINCHOT. Because it refers directly to my last answer.

The CHAIRMAN. Has that letter been introduced as evidence?

Mr. PINCHOT. It has been introduced.

Mr. VERTREES. It ought to be printed.

Mr. PEPPER. It is printed. I happen to have the typewritten copy at hand. I will find the printed one while Mr. Pinchot is looking at this document.

Mr. VERTREES. Very well; you may proceed.

Mr. PINCHOT (reading):

Mr. Pinchot's statement that the 'so-called' Indian cooperative agreement is erroneous——

Mr. VERTREES. Well, I will ask you if it is not a fact that when Mr. Ballinger wrote that letter the President had considered the question and decided it?

Mr. PINCHOT. Had considered which question?

Mr. VERTREES. The original question, and written this letter from which you extract a portion, back to Mr. Ballinger.

Mr. PINCHOT. Which question?

Mr. VERTREES. All the questions.

Mr. PINCHOT. Then he has decided the whole case?

Mr. VERTREES. Yes.

Mr. PINCHOT. He has decided it and two others.

Mr. VERTREES. You have set forth in your evidence that extract from the letter which the President wrote Mr. Ballinger.

Mr. PINCHOT. Mr. Ballinger to the President.

Mr. VERTREES. It is from the President to Mr. Ballinger. It is on page 1191. I will read it:

Mr. PINCHOT. I will read a paragraph, the one next to the last and next before that in this letter of the President.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And that is the extract which I read to you?

Mr. PINCHOT. That you read to me?

Mr. VERTREES. Never mind. I want to get this straight, and I think that you will admit that I am right about it. That letter was September 13, 1909, that you quoted from, was it not?

Mr. PINCHOT. Yes, sir. That is the letter that the President wrote back to Mr. Ballinger September 13, 1909.

Mr. VERTREES. And in that he said this thing which you set forth to show to this committee that Mr. Ballinger, as you say, had deceived the President?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. That letter that you have brought to me was a letter written November 4, after that?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Then I want to know how that letter, written November 4, after that, could have deceived the President when this letter of the President, which you say shows he was deceived, was written September 13?

Mr. PINCHOT. There are two perfectly clear cases.

Mr. VERTREES. I wish you would give them to me.

Mr. PINCHOT. The second one is the one I read last and the first one is the one you have here.

Mr. VERTREES. There is no doubt about that.

Mr. PINCHOT. Now, unless the President got from Mr. Ballinger the information contained in his letter of September 13, I do not know where he got it.

Mr. VERTREES. I know you do not know where he got it. The point I am on, you know, is how does your answer explain the facts that I brought to your attention, namely, that you say that you set forth this extract on the President's letter of the 13th of September to show that he was deceived by Mr. Ballinger?

Mr. PINCHOT. I repeat that I think his letter of September 13 does show that he was deceived by Mr. Ballinger in that respect.

Mr. VERTREES. One moment. I read from Mr. Ballinger's letter to the President prior to September 13, in which he sets forth a number of documents, among others the papers of Assistant Secretary Pierce.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Those things are, I presume, parts of them, where he sets forth a number of documents, and as I recall—I will repeat this opinion referred to—is one of those cited by Secretary Pierce.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And Mr. Ballinger himself says to the President in this communication, does he not:

I have given this matter no special consideration, and as you will see from the correspondence attached, action has been taken without any special direction by me.

Inasmuch as Indian reservations are required to be supervised by superintendents of reservations, it is a question how far cooperation with another bureau can be made effective.

I am not disposed to favor a narrow construction of the law or of the agreement, but believe the position of Acting Secretary Pierce and Assistant Attorney-General Lawler in the particular case is well taken.

I have the honor to remain, yours, very respectfully,

R. A. BALLINGER, *Secretary*.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, is that not the representation that Mr. Ballinger made to the President?

Mr. PINCHOT. That is a part of the representation made to the President, and what he may have said to the President I do not know. What the President said is written to Mr. Ballinger, "your declination to carry out the contract was made necessary by a ruling of the comptroller." Now, the President was mistaken in making that statement. He must have gotten his information from Mr. Ballinger.

Mr. VERTREES. I am not on the question of the President being mistaken or not. You have here assumed to hold Mr. Ballinger responsible for causing that mistake, and you said that you excerpted that extract for the purpose of showing to this committee that he had. I ask you if the President there says that Mr. Ballinger had put him under that impression. He shows that he is under the impression, but does he say he got it from Mr. Ballinger or that he got it from information that was given to him?

Mr. PINCHOT. He does not say where he got it.

Mr. VERTREES. That is what I am on. He does not say where he got it; isn't that correct?

Mr. PINCHOT. That is perfectly correct.

Mr. VERTREES. That is why I ask you whether what Mr. Ballinger did say to the President, so far as that is concerned, is that he had given no special consideration and had given no direction about the matter, but that he was not disposed to favor a narrow construction of the law, but believed that the position of Acting Secretary Pierce and Assistant Attorney-General Lawler in that particular case, is well taken, and is not that all that he says to the President, so far as you know?

Mr. PINCHOT. At that time; but it is perfectly clear that my inference that Secretary Ballinger had informed the President at this time to an erroneous effect is sustained by the fact that he did so inform him a little later.

Mr. MADISON. What was the position of Assistant Secretary Pierce and Mr. Lawler?

Mr. PINCHOT. Their position, as I understand it, and as it was shown in Assistant Secretary Pierce's letter, was that that agreement was unlawful on well understood legal principles, or something of that kind. I believe those letters are in evidence.

Mr. MADISON. Do they quote or cite the opinion of the comptroller?

Mr. PINCHOT. They make no reference to it whatever; and Mr. Valentine's letter to me, written in October, after the whole matter was settled, is to the effect that no reference to a decision of the comptroller was made throughout the discussion.

Mr. GRAHAM. In the ordinary transaction of business there how would the President learn of the comptroller's decision—directly from the comptroller or from the Secretary of the Interior—how would he in the ordinary course of business be made aware of the comptroller's decision?

Mr. PINCHOT. Naturally through the officer whose affairs the comptroller's decision referred to.

Mr. GRAHAM. In this case who would that be?

Mr. PINCHOT. In this case the Secretary of the Interior.

Mr. MADISON. Well, the President uses this language: "Your action was made necessary." Mr. Ballinger's action was made necessary. Then the controlling thing that acted upon Mr. Ballinger's mind, according to your interpretation, was that decision of the comptroller; that was the way you interpreted it?

Mr. PINCHOT. That is exactly the way I interpreted it.

Mr. VERTREES. But here is the part I want to get at, as to how the President was put under that impression; and to get at that clearly and leave it beyond question, look at page 89 of Senate document and state if you do not find there a letter dated July 10, 1909, from Mr. Pierce, Acting Assistant Secretary, to Mr. Ballinger, in which he states the difficulties that have arisen, and at the end of the letter incloses him a number of papers: First, a copy of the cooperative agreement; second, a copy of his letter of July 8, 1909; then a copy of the memorandum prepared in the Indian Office in regard to the cooperative plan; then the memorandum prepared by Mr. Finner; the memorandum submitted by Commissioner Valentine; copy of the comptroller's opinion of June 6, 1907, and a copy of the comptroller's opinion of September 3, 1908. And that is the opinion that we have been referring to, is it not?

Mr. PINCHOT. That is the opinion that you have referred to.

Mr. VERTREES. Yes. And he refers to it and submits all these documents, Acting Secretary Pierce does, to Mr. Ballinger, does he not, on the 10th of July, 1909?

Mr. PINCHOT. He says, I am mailing the cooperative agreement and letters.

Mr. VERTREES. Does he not say at the bottom, the following papers—all those that I have mentioned to you?

Mr. MADISON. What page is that?

Mr. VERTREES. That is on page 90 of Senate document.

Mr. PINCHOT. Oh, I was reading the wrong letter.

Mr. GRAHAM. It is the second letter on that same page there. There are two of the same date.

Mr. VERTREES. I think the other is a telegram there.

Mr. GRAHAM. There is nothing to indicate that it is.

Mr. VERTREES. Does it bear upon this question that I am asking about? I will put it in so that we may see. Now I will read from page 89 of Senate document, as follows:

WASHINGTON, D. C., July 10, 1909.

Hon. R. A. BALLINGER,
Secretary of the Interior, Seattle, Wash.:

You did not determine whether cooperative agreement between Forestry Bureau and Indian Office for care and protection of forests on Indian reservations should be continued. Valentine advises its continuance because he has no sufficient corps of trained men for the work. I advise its continuance unless legal objection appears. Upon receiving expression of your administrative views, department will thoroughly examine its legality. Speedy decision necessary because fires are prevailing. See 35 Stat., 783. Am mailing cooperative agreement and letter.

FRANK PIERCE,
Acting Secretary.

Now, where is his reply; where is Mr. Ballinger's reply to that?

Mr. PINCHOT. On page 96.

Mr. McCALL. That refers to Mr. Ballinger's telegram on page 88, I think; what has just been read. It was stated on page 88, and it would appear from reading it it was a telegram.

Mr. VERTREES. I will ask you if Mr. Ballinger did not reply to that on the 14th, as follows:

PIERCE, *Acting Secretary of the Interior, Washington, D. C. —*

Mr. OLMSTED. What page is that on?

Mr. VERTREES. That is on page 95 of Senate document, the telegram being sent from Seattle.

PIERCE, *Acting Secretary, Washington, D. C.:*

Understand Valentine had arranged cooperative agreement between Forest and Indian Office for this year. In expenditure of our appropriations cooperation should mean transfer of experts to our rolls, so as to retain jurisdiction of our service. Will advise further when agreement and letter are received.

BALLINGER.

And then on the 15th did he not send a telegram, which appears on page 96 of Senate document, reading as follows:

PIERCE, *Acting Secretary Interior, Washington, D. C.:*

Respecting cooperation with Forest Service for protection of timber on Indian reserves have received communication 10th instant. If cooperation is impracticable by transfer of experts to our rolls, take such action as will secure best results.

BALLINGER.

Now, look on page 97 of that document and see if this telegram from Mr. Pierce at Washington to Mr. Ballinger at Seattle does not appear:

HON. R. A. BALLINGER,

Secretary of the Interior, Federal Building, Seattle, Wash.:

Lawler thinks our forestry appropriation can not be administered under existing cooperative agreement; therefore I have directed Valentine to proceed independently, calling, however, on Forestry Bureau for expert advice when needed.

FRANK PIERCE, *Acting Secretary.*

Now, is it not true that Mr. Oscar Lawler is Assistant Attorney-General and the legal adviser to the Secretary of the Interior?

MR. PINCHOT. It is.

MR. VERTREES. Now, recurring to the letter I ask you, with this respect to the letter of Mr. Pierce to Mr. Ballinger, dated July 10, and which is mentioned and referred to in these telegrams, if it does not say that a number of documents were forwarded by Mr. Pierce to Mr. Ballinger, and among others as part thereof, a copy of the comptroller's decision of September 3, 1908?

MR. PINCHOT. It does.

MR. VERTREES. Now, recurring again, so as to make it entirely clear as to what Mr. Ballinger said to the President, I call your attention to page 88 of Senate documents in which there is a list of papers which Mr. Ballinger sent to the President as part of his statement of the case, and I ask you if it is not true that he says there that he sent a copy of the letter with inclosures, enumerated therein, from Acting Assistant Secretary Pierce dated Washington D. C., July 10, 1909, to Secretary Ballinger at Seattle, Wash.?

MR. PINCHOT. Where are you reading from now?

MR. VERTREES. Page 88, about a third of the way down.

MR. PINCHOT. I recall——

MR. VERTREES. Have you found it, the copy of the letter with inclosures enumerated therein?

MR. PINCHOT. Oh, yes. I beg your pardon.

MR. VERTREES. Now, I ask you if that does not show that Mr. Ballinger forwards all those documents, including Mr. Lawler's and Mr. Pierce's opinion and the copy of the comptroller's opinion—if he does not forward them all to the President in his communication without any comments upon them at all?

MR. PINCHOT. He forwards them, certainly.

MR. VERTREES. And without any comment whatever?

MR. PINCHOT. Without any comment whatever specifically upon them.

MR. VERTREES. Further than at the very conclusion where he says "I am not disposed to favor a narrow construction of the law, or of the agreement, but believe the position of Acting Secretary Pierce and Assistant Attorney-General Lawler in the particular case is well taken."

MR. PINCHOT. He says that.

MR. VERTREES. And isn't that the representation he made to the President?

MR. PINCHOT. That is the representation he made to the President.

MR. VERTREES. And were not those the documents and the papers the President had before him when he wrote the communication to Ballinger, from which you have taken an extract and set forth

here as a fact to show that Mr. Ballinger had deceived the President— isn't that true?

Mr. PINCHOT. They are, but obviously they are not all that the President had, because otherwise he would not have stated in his letter of September 13: "Your declination to carry out the contract was made necessary by a ruling of the comptroller."

Mr. VERTREES. But whether it was or was not, Mr. Pinchot, the point I want your mind on is, is there anything in the President's statement to show that the other information he had gotten, if he had gotten information, was from any representation or misrepresentation on the part of Mr. Ballinger?

Mr. PINCHOT. It is natural to suppose that when the President includes a statement concerning a department, as to which he has consulted with the head of a department, that he got that information from the said head.

Mr. VERTREES. It is a matter of inference by you placed on something which occurred, you admit, outside of these documents?

Mr. PINCHOT. I take it straight from the President's own letter.

Mr. VERTREES. As an inference?

Mr. PINCHOT. As an unavoidable inference from the President's own letter.

Mr. VERTREES. That is what you mean when you say that Mr. Ballinger deceived the President?

Mr. PINCHOT. I mean when I say that Mr. Ballinger deceived the President that he laid before him, obviously, as shown from the President's own letter, information as to the reason for the termination of the cooperative agreement, which was in fact not true, and I add to that that an inquiry of the comptroller himself would have at once established the fact that the opinion of September 3 did not apply; and I add to that that I have learned and am prepared, as I believe, to prove the comptroller had read the opinion and had been consulted as to the method of accounting under that opinion, and that within less than two weeks, or about two weeks, he had taken such action as is proof that he still considers the agreement to be legal. In other words, if Secretary Ballinger, or the Interior Department, had been interested enough in the continuance of the cooperative agreement to ask the comptroller, instead of assuming that this decision of his was destructive of it—if they had taken interest enough in it to have asked the comptroller—he himself would have informed them that it had no application.

Mr. VERTREES. Let us recur to the matter that I talked to you about, or endeavored to get an opinion from you on. We are on the point, Mr. Pinchot, that you have read an extract from the letter of the President to this committee to show that Mr. Ballinger deceived the President.

Mr. PINCHOT. I did.

Mr. VERTREES. As to that opinion of the comptroller: Now, I ask you if these papers do not show, and Mr. Ballinger's letter does not show, if Mr. Ballinger's statement does not show that a copy of that opinion was sent to the President for his own examination?

Mr. PINCHOT. It does—they do.

Mr. VERTREES. And without any comment on the part of Mr. Ballinger further than the statement that he believed that General Lawler's opinion was right?

Mr. PINCHOT. Precisely.

Mr. VERTREES. The opinion was sent to the President for his own examination?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And is a part of the communication from Mr. Pierce?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And referred to in the communication of Mr. Ballinger?

Mr. PINCHOT. And referred to in the communication of Mr. Ballinger.

Mr. VERTREES. With the general statement that I have given?

Mr. PINCHOT. Precisely.

Mr. VERTREES. And does not this show that that was the way it all got to the President?

Mr. PINCHOT. It shows that it got to the President in that way, but what you have just said is not in consonance with the declarations in the President's own letter, and therefore there is an unavoidable inference that he got other information.

Mr. VERTREES. That is to say, as you read the letter, in the extract you have given, you wish to show to this committee that the President therein says that Mr. Ballinger is the man who told him what the decision of the comptroller meant?

Mr. PINCHOT. I never said that.

Mr. VERTREES. What did you say on that point?

Mr. PINCHOT. I say the statement in the President's letter to Mr. Ballinger is clear proof that he had additional information from some source beyond what you have read, because he says to Mr. Ballinger: "Your declination to carry out the contract was made necessary by the ruling of the comptroller." That fact is nowhere shown in the document that you have just read.

Mr. VERTREES. Does not the document that I have just read show that the President had the opinion for his own examination?

Mr. PINCHOT. Yes; but it nowhere shows that that opinion was the basis of the comptroller's decision.

Mr. VERTREES. The President is a lawyer himself, is he not?

Mr. PINCHOT. We are not talking about the President's decision, but of Mr. Ballinger's decision.

Mr. VERTREES. No; we are talking about Mr. Ballinger's deception practiced on the President.

Mr. PINCHOT. Yes; we are talking about Mr. Ballinger's decision, as the President understood it, based on the comptroller's decision.

The CHAIRMAN. But, Mr. Pinchot, did not Mr. Ballinger send him a copy of that decision, according to this document?

Mr. PINCHOT. He did.

The CHAIRMAN. And if the President had a copy of that before him, being a good lawyer as he is, and having been a judge for many years, would he not be able to know what that decision was himself?

Mr. PINCHOT. There is nothing here to show that he ever read it.

Mr. MADISON. Is there anything in that opinion that would cause anybody to think that a good lawyer would adopt that decision as authority for the statement that was made?

Mr. PINCHOT. Not as my view goes.

Mr. MADISON. Well, that would be a question, then, between men and lawyers, perhaps, as to whether or not the Tracewell decision

of September 3 was a sufficient ground for the statement or decision that the cooperative agreement was bad?

Mr. PINCHOT. The plain way to have ascertained that would have been to have asked the comptroller.

Mr. MADISON. Well, that would have been asking a judge, would it not, to have given a diagram of his decision or an explanation of his decision?

Mr. PINCHOT. The thing was so perfectly clear to our minds in the Forestry Service, and is so still, that I think there can be no question as to whether or not it applies.

Senator FLETCHER. They all knew that the practice had not been to observe that opinion?

Mr. PINCHOT. They all did.

Senator FLETCHER. But what did you gather, Mr. Pinchot, of the meaning of the telegram of July 14, 1909, on page 95 of the Senate document, of Mr. Ballinger's directions?

Mr. PINCHOT. Page 95?

Senator FLETCHER. Page 95, at the bottom [reading]:

In expenditure of our appropriation cooperation should mean transfer of experts to our rolls, so as to retain jurisdiction of your service.

Mr. PINCHOT. That is in effect a direction by Secretary Ballinger to Acting Secretary Pierce to terminate the agreement, as I understand it.

Senator FLETCHER. In other words, that was distinctly in opposition to the carrying out of the agreement?

Mr. PINCHOT. Wholly inconsistent with the provisions of the agreement.

Mr. JAMES. Mr. Pinchot, in the communication of Secretary Ballinger to the President relative to this matter, did he say to the President that he had declined to carry out this contract on account of this decision of the comptroller?

Mr. PINCHOT. No.

Mr. JAMES. How could the President have made this statement here [reading]?

Your declination to carry out the contract was made necessary by the ruling of the comptroller.

Mr. PINCHOT. So far as I can see, he must have gotten that information from Secretary Ballinger.

Mr. JAMES. It was not contained in any written statement made by Secretary Ballinger?

Mr. PINCHOT. It was not.

Mr. JAMES. And that Secretary Ballinger had declined to carry out this contract without any reason was not disclosed in any communication from the Secretary to the President?

Mr. PINCHOT. Not that I can see.

Mr. JAMES. And your inference is that the President must have had some later communication with Mr. Ballinger and found out what his decision was and what he based it on?

Mr. PINCHOT. I inferred, of course, that the President had a good reason for his statement.

Mr. McCALL. Is it not just possible that the President might have concurred in the view of the comptroller and said that that decision made necessary the termination of the agreement?

Mr. PINCHOT. The President by saying so, Mr. McCall, would not have concurred in the opinion of the comptroller, but would have concurred in Mr. Ballinger's opinion of the opinion of the comptroller.

Mr. McCALL. But he had a copy of the opinion of the comptroller?

Mr. PINCHOT. Yes, sir.

Mr. McCALL. Submitted to him?

Mr. PINCHOT. Yes, sir.

Mr. McCALL. And if he concurred in it, it might to his mind have made a termination of that agreement necessary?

Mr. PINCHOT. If the President—

Mr. McCALL. If it should have happened that he concurred in the opinion of the comptroller?

Mr. PINCHOT. If the President had read the opinion of the comptroller, that would be true. I doubt very greatly if the President would do that.

Mr. McCALL. How could he have made the statement [reading]—

Your declination to carry out the contract—

How could the President have made that statement about something that Mr. Ballinger had declined to do without knowing that Mr. Ballinger had declined to do it?

Mr. PINCHOT. Of course the President would not have done that. The only thing we can assume, and we do assume and believe it, was that the President did say what he believed to be the facts.

Mr. OLMSTED. I would like to understand one matter. In your opening statement, and, I think, several times in quoting from that letter of the President's where he says "Your action was made necessary by the decision of the comptroller," you have stated flatly that there was no such decision. I understand you to mean, however, not that there was never any opinion rendered by the comptroller, but that it does not mean what the President there assumes it to mean?

Mr. PINCHOT. What I mean by that is that the comptroller never rendered a decision upon the validity or covering the validity of the cooperative agreement.

Mr. OLMSTED. But he did make the decision as appears on page 95 of Senate document?

Mr. PINCHOT. Yes, sir.

Mr. OLMSTED (reading):

The detail of an employee from one department to another, with or without an agreement between the heads of departments concerned, to perform duties which are not connected with the department from which detailed, and the payment of his salary from appropriations for, or moneys under the control of, the department to which detailed, is unauthorized, unless express authority by statute is granted therefor, and I am not aware of any statute that either expressly or impliedly gives general authority to make such detail between the Agricultural and the Interior departments.

Now, may not the President have referred to that decision, particularly as that decision was, as the evidence shows, sent to him?

Mr. PINCHOT. That decision does not apply to the validity of the cooperative agreement.

Mr. OLMSTED. That is what I mean; it is a possible difference of construction as to the meaning of that decision.

Mr. PINCHOT. Yes; but as I have just pointed out, the President's statement does not refer to his opinion.

Mr. OLMSTED. It refers to the decision of the comptroller?

Mr. PINCHOT. No; the President's statement does not refer to his own opinion of the decision of the comptroller, but to Mr. Ballinger's. He says: "Your declination to carry out the contract was made necessary."

Mr. OLMSTED. Well, he referred to Mr. Ballinger's declination, but to the comptroller's decision.

Mr. PINCHOT. Yes.

Mr. OLMSTED. Now, I ask you if it is not probable that that paragraph in his letter was written after reading this decision by the comptroller of September 3, 1908, which had been forwarded to him, as the evidence shows?

Mr. PINCHOT. It does not seem to me so, because he is speaking, not of his own decision, but of Mr. Ballinger's decision.

Mr. OLMSTED. No; he is speaking of the comptroller's decision.

Mr. PINCHOT. Well, let me use words a little different. He is speaking of Mr. Ballinger's declination.

Mr. OLMSTED. Made necessary by the comptroller's decision. You say there was no such decision. I ask you if it is not possible and probable that the President referred to this decision, about which there may have been a difference of opinion as to what it really covers and conveys?

Mr. PINCHOT. Yes. But whatever judgment the President might have had about the ruling of the comptroller, he uses the language here that it makes no difference as to what Mr. Ballinger's declination was caused by if the President afterwards, which I doubt, found that the ruling of the comptroller did decide, was such that Mr. Ballinger believed, or as Mr. Ballinger told the President he believed, that does not affect the statement here, that the President says to Mr. Ballinger, "Your declination to carry out the contract was made necessary." He is referring to the time when Mr. Ballinger acted in putting first the President's subsequent opinion on that state of facts?

Mr. OLMSTED. He says it was made necessary by this decision, and you say that there is no such decision. Isn't it a fact that you mean that there is a difference of opinion?

Mr. PINCHOT. No.

Mr. OLMSTED. You do not think that decision covers that condition there at all?

Mr. PINCHOT. There is perfectly clear proof that that decision—

Mr. MADISON. Your contention is that this language of the President is a statement as to the thing that induced the mental process in Mr. Ballinger's mind whereby he arrives at the conclusion that the cooperative agreement was bad?

Mr. PINCHOT. Exactly.

Mr. MADISON. And that is what he is saying. Now, then, your contention is—I am not taking any side in the matter, but in order that we may understand your contention—your contention in the matter is that nobody could have known what Mr. Ballinger's mental processes were except himself, and that he had to communicate them, either directly or indirectly, to the President—that is the idea, is it not?

Mr. PINCHOT. It seems perfectly clear that the President could not have learned this in any other way, except through Mr. Ballinger.

Mr. McCALL. Does the President say anything about Mr. Ballinger's mental processes? Does he not say in effect that this termi-

nation of the agreement—that your declination was made necessary by this legal opinion which you have forwarded to me?

Mr. PINCHOT. No.

Mr. MCCALL. Is there anything about mental processes there? Is it not simply saying in effect that the action of the department was made necessary by the opinion of the comptroller?

Mr. PINCHOT. He says—

Mr. JAMES. Would he not have used the word "is" made necessary instead of "was," if he had not known anything about it?

Mr. PINCHOT. If he had been speaking of it as of the date when he wrote the letter and not as of the date when Mr. Ballinger acted, I think he would.

Mr. VERTREES. If you will allow me, I think that is all made very clear by Mr. Ballinger's communication to the President, and if you will look on page 88 of the Senate document you will see where Mr. Ballinger states to the President—I will read it:

Answering that part of your letter of August 22, in which you say—

And he now comes to what the President says:

I am in receipt of a letter from Senator La Follette complaining of the withdrawal from the agreement of cooperation between the Indian Bureau and the Forestry Bureau in respect to the Indian reservations, and I have written Pierce to know why this separation has taken place. If it was done at your instance, will you be good enough to let me know what the circumstances are in respect to the matter and why it was necessary to do it.

In reply to that inquiry of the President, Mr. Ballinger says:

I beg to say that some time in the spring Mr. Valentine informally called my attention to the cooperative agreement of January 22, 1908, between the Secretary of the Interior and the Secretary of Agriculture, for cooperation between the Indian Office and the Forest Service, relating to the care, protection, and use of timber on Indian reservations. As I remember, I stated at that time to Mr. Valentine that where the Indian Office was acting under direct appropriations, cooperation would seem to me to be possible only where the forest officers were taken over on the Indian Office rolls for this purpose, and that the provision of the agreement providing "That all men so employed and all those already employed in forest work on Indian reservations shall constitute a part of the force of the Forest Service, responsible directly and only thereto" would be applicable only where the Forest Service was disbursing its own funds.

I recall no further conversation, communication, or action respecting this matter until the receipt of correspondence which I herewith attach in its order.

And then he attaches the correspondence to which I have called your attention.

Now, is it not clear, Mr. Pinchot, there that he tells the President what his view was, and why he acted as he did act, and gives the President the data on which he acted, and in that data is included the opinion of Mr. Pierce, which he tells the President was written by Mr. Lawler, or by the advice of Mr. Lawler, and also a copy of that decision of the comptroller—all sent along as the grounds and basis for his official action at the time he mentions—isn't that the truth of the matter?

Mr. PINCHOT. They are all sent along evidently to explain—

The CHAIRMAN. You do not answer that. He asked you whether it is true. What is your answer?

Mr. PINCHOT. I said they were sent along for that purpose.

Mr. VERTREES. Isn't this true, that all he says with respect to them is [reading]:

I have given this matter no special consideration, and as you will see from the correspondence attached, action has been taken without any special direction by me. Inasmuch as the Indian reservations are required to be supervised by superintendents of reservations, it is a question how far cooperation with another bureau can be made effective. I am not disposed to favor a narrow construction of the law or of the agreement, but believe the position of Acting Secretary Pierce and Assistant Attorney-General Lawler in the particular case is well taken.

Now, I ask you if he predicates his opinion at all on the decision of the comptroller, does he?

Mr. PINCHOT. No, sir; not specifically.

Mr. VERTREES. I will ask you if Mr. Pierce predicates his opinion upon the decision of the comptroller?

Mr. PINCHOT. No.

Mr. VERTREES. I will ask you if Mr. Lawler predicates his opinion upon the decision of the comptroller?

Mr. PINCHOT. No; not that I know of. I have never seen his.

Mr. VERTREES. But a copy of that decision went along with the other opinions?

Mr. PINCHOT. Yes.

Mr. VERTREES. And the President, having them all before him, states it as his conclusion, not that you, Mr. Ballinger, acted as you did because of that opinion, but you could not have acted differently because of this comptroller's opinion—stating it as his opinion of the matter?

Mr. PINCHOT. That is not my interpretation of it.

Mr. VERTREES. Is not that what it means, and can it mean anything else?

Mr. PINCHOT. I think it can.

Mr. VERTREES. Very well. I think we understand each other. I now hand you a number of documents.

Mr. PINCHOT. Before we pass on, Mr. Vertrees—

Mr. VERTREES. I haven't passed on yet.

Mr. PINCHOT. I would like to read just two opinions.

Mr. VERTREES. Very well.

Mr. PINCHOT. At the bottom of page 88, Mr. Ballinger says:

I have given this matter no special consideration, as you will see from the correspondence attached, action having been taken without any special direction by me.

Then, on the bottom of page 95, Mr. Ballinger's telegram of July 14 to Mr. Pierce says:

PIERCE, *Acting Secretary Interior, Washington, D. C.*:

Understand Valentine had arranged cooperative agreement between Forest and Indian Office for this year. In expenditure of our appropriations cooperation should mean transfer of experts to our rolls, so as to retain jurisdiction of our service. Will advise further when agreement and letter are received.

BALLINGER.

That direction, as Senator Fletcher brought out, was substantially an order to discontinue the cooperative agreement.

Senator FLINT. I would like to ask you one question. Mr. Pinchot, you have examined the list of documents submitted by Mr. Ballinger to the President, have you not?

Mr. PINCHOT. Yes, sir.

Senator FLINT. And have read the statement which he made to the President?

Mr. PINCHOT. Yes, sir; the whole statement.

Senator FLINT. From page 88 and concluding on page 89?

Mr. PINCHOT. Yes, sir.

Senator FLINT. I would like to ask you whether, in your opinion, it is a fair statement of the case, whether all the documents were sent to the President that should have been sent?

Mr. PINCHOT. As far as I can now recall, there were no other documents that should have been sent.

Senator FLINT. Then it is a fair statement of the case?

Mr. PINCHOT. It seems to be a pretty fair statement of the case, from Mr. Ballinger's point of view.

Senator FLINT. Then, unless—

Mr. PINCHOT. Except as I have just stated, this calls attention indiscriminately—

Mr. VERTREES. That telegram, Senator, is in there.

Senator FLINT. That is in there.

Mr. PEPPER. Is there any statement there, Mr. Pinchot, of the fact that the auditor had been passing accounts under that agreement for months after the comptroller's opinion of September 3, 1908?

Mr. PINCHOT. None, whatever.

Senator FLINT. Then, if Mr. Ballinger did not make any further statements to the President, could it not reasonably be assumed that the President himself had construed this decision of the comptroller to prohibit this cooperative agreement?

Mr. PINCHOT. I think not.

Senator FLINT. Not if he did not have further conversation with him?

Mr. PINCHOT. But my information is that he had further conversation with him.

Senator FLINT. But I am assuming the fact that he did not make any further statement to him on the subject; then could it not be assumed that the President had construed this decision of the comptroller to prohibit the cooperative agreement?

Mr. PINCHOT. On the assumption that this was all the information that the President had, I think that inference would follow, but I do not think that inference to be in accordance with the facts.

Senator FLINT. I do not know whether it is myself. I am just trying to ascertain whether the President could have acted himself and construed the Tracewell decision.

Mr. PINCHOT. I am glad to be reminded of the fact, which was known at the time by the officers of the Interior Department, that the accounts had been steadily passed upon by the auditor under the agreement, the auditor being entirely subject to the decision of the comptroller.

Mr. MADISON. Do you understand that this is still true up to this date?

Mr. PINCHOT. My information is that the last approval of such accounts is within two weeks.

The CHAIRMAN. Is not that, Mr. Pinchot, on the basis now that they are working under the direction of the Interior Department instead of being subject to the jurisdiction of the Agricultural Department?

Mr. PINCHOT. No, sir; that is under the cooperative agreement, as originally adopted.

The CHAIRMAN. No; but that has been abandoned; they are not working under that now. They are not working under that cooperative agreement now.

Mr. PINCHOT. What I referred to is the approval of the accounts incurred under the original agreements.

The CHAIRMAN. No; under what has subsequently taken place.

Mr. PINCHOT. No, sir; this refers to the agreement itself.

Mr. VERTREES. Mr. Pinchot, you have stated three or four times that the accounts or vouchers or expenditures under the cooperative agreement were approved by the auditor?

Mr. PINCHOT. That was my information.

Mr. VERTREES. I here hand you certified copies of every one of them, which bear this certification:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 4, 1910.

I hereby certify that the attached copy, pages 1 to 129, are true and literal exemplification of copies of vouchers and other papers on file in this office pertaining to the reimbursement of the Forest Service for work performed in connection with timber upon Indian reservations.

[SEAL.]

F. H. ABBOTT, *Acting Commissioner.*

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. I will ask you to examine them and state to this committee if this is not the truth: That the vouchers were prepared by officers of the Forestry Department when they were presented—that is to say, they were under the direction of your people—and that they were presented in the form of reimbursement to your department and not in the form of any claim under any cooperative agreement at all.

Mr. PINCHOT. No, sir; they were—

Mr. VERTREES. Look at them and see.

Mr. PINCHOT. It would take considerable time to examine this whole file. As I understand the fact to be, it is this—

Mr. VERTREES. Get at it this way: Did not the forestry men do the work, and then were they not paid out of the appropriations for the Forest Service?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And then were not the vouchers presented for reimbursement?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Under the general long-established rule between departments where such is the case?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And do they at all say, or bring to the attention of the auditor, that it was a matter of cooperative agreement in any way?

Mr. PINCHOT. I am not aware whether they do.

Mr. VERTREES. Look at them and see.

Mr. PINCHOT. I am not aware whether they do in detail, but it does not matter.

The CHAIRMAN. Read one of them.

Mr. VERTREES. I think it does matter a good deal.

The CHAIRMAN. Can you read one of them?

Mr. PINCHOT. Yes.

The CHAIRMAN. I suppose they are of the same style?

Mr. VERTREES. I think so.

The CHAIRMAN. The same form.

Mr. PEPPER. Mr. Chairman, may I ask through you, so that we may examine the papers intelligently, on what basis could there be a reimbursement of the Forest Service for payments made, except upon the basis of an agreement between the departments?

Senator FLINT. Let the witness testify.

Mr. PEPPER. I simply wanted to ask Mr. Vertrees whether he cared for an answer to that inquiry?

Senator FLINT. I doubt whether Mr. Vertrees knows.

The CHAIRMAN. Please read the voucher, one of them; I suppose they are all alike.

Mr. PINCHOT. Here is a letter from Mr. Price to Mr. Leupp:

MAY 5, 1909.

HON. FRANCIS E. LEUPP,
Commissioner Indian Affairs,
Department of the Interior, Washington, D. C.

SIR: I have the honor to transmit herewith statement of account against the Indian Office for payments made on account of work on the Coeur d'Alene Indian Reservation.

If found correct, please have the necessary steps taken to have the amount, \$150.10, transferred from the proper Indian appropriation to the credit of the appropriation general expenses, Forest Service, 1909.

Very respectfully, yours,

OVERTON W. PRICE,
Associate Forester.

The CHAIRMAN. They are of that same kind?

Mr. VERTREES. I submit them on that assumption, and say that they are. We will examine them, of course, and see.

The CHAIRMAN. Do you want them all in the record?

Mr. VERTREES. Yes.

Mr. McCALL. There must be some other form. Is the certification there of the auditor, Mr. Pinchot? That is simply a letter to Mr. Leupp.

Mr. PINCHOT. I have not gotten down to that yet.

The CHAIRMAN. Read the form of the voucher.

Mr. VERTREES. If the chairman will allow me in this connection, I will explain the distinction which I am endeavoring to bring out. I understand the decisions of the comptroller, to which reference has been made, to go into this point; that it is entirely allowable for a man to be transferred from one department to do service in another; but when that is the case the only way they can do is to pay him out of the department to which he belongs—that is to say, to pay his salary. If there are any extraordinary expenses incurred in the other department to which he is transferred, or detailed, rather, those expenses may be reimbursed from that, but so far as his salary is concerned it still must be paid out of his original department to which he belongs. Is not that correct, Mr. Finney?

Mr. FINNEY. Yes.

Mr. VERTREES. The expenses that may be incurred, they must be paid by the department to which he belongs, but can be recovered from the other to which he is detailed, by a system of reimbursement, so that the department to which he belongs pays the money to him, and then makes a claim against the other department where he performs service, and under a form that they call a form of reimbursement, that money is refunded. But now, in this case, as Mr. Pierce's opinion and Mr. Lawler's opinion show, the view of the law depart-

ment of the Interior was this, that here was a case where the men were to be employees of the Indian Service, which was a part of the Department of the Interior; they were their employees, and on their pay rolls, and under the civil service.

Mr. OLMSTED. When you say here was a case, what do you mean—the one in which these vouchers were given?

Mr. VERTREES. No; I mean the case on which they split up upon. The case in which Mr. Lawler and Mr. Pierce gave opinions in, and there was a specific appropriation for the purposes of the Indian Department. Now, they said in this case that here are these men who are Indian employees to do work upon Indian land, and for Indian purposes, and for the Indian Department, and employees of that department. For a cooperative agreement to be allowed to control, which says these men are to be paid out of this fund, as Indian employees, and shall be absolutely under the direction and control of another department, is an abrogation of their authority, and something they have no right to do.

Mr. MADISON. But you make the statement, Mr. Vertrees, that these men were employees of the Indian Bureau.

Mr. VERTREES. Absolutely.

Mr. MADISON. Well, I have understood from Mr. Pinchot that they were his employees, his trained employees.

Mr. VERTREES. If you will allow me there——

Mr. MADISON. That he put over there to work.

Mr. VERTREES. Precisely. And you were clearly under that impression when you made that remark to Senator Root. Senator Root said [reading]:

They hire a man from the Agricultural Department to do the work, instead of going out in the streets and getting some one.

Mr. PEPPER. Is it a fact as you understand it that the money appropriated for the Department of the Interior is expended under this agreement by anybody but the Department of the Interior?

Mr. PINCHOT. No; it simply hires out, as Senator Root says, hires the Forestry Service, instead of hiring somebody else.]

Mr. MADISON. I remember that distinctly.

Mr. VERTREES. Now, the case I am putting, and which we will show absolutely and clearly, is that these men, where these men are present, came up upon a list recommended to the Secretary of the Interior—and I hold the list in my hand, of the Indian Bureau—for service at certain places, forest guards at Spokane, Flathead, Fort Apache, Fort Lapwai, and so on—a number of places—and these men were to be put upon the pay rolls of the Indian Department to be paid out of that specified \$100,000 fund, and to do service in the Indian Department. But this cooperative agreement says that, notwithstanding all that, they should be absolutely and wholly under the control and direction of the Forest Service.

Mr. MADISON. But they were originally forest men?

Mr. VERTREES. No; Indian men.

Mr. MADISON. Not originally forest men?

Mr. VERTREES. No; not forest men.

Mr. MADISON. Is that where the clash comes?

Mr. VERTREES. No, sir; not one of them were forest men.

Mr. MADISON. Pardon me. You have the right to make your statement fully. I only ask for information.

Mr. VERTREES. I want to give it to you as I understand it. Am I not right, Mr. Pinchot?

Mr. PINCHOT. There are both forest men and Indian men employed. We were employing our forest guards and supervisors to do some of the work for the Indian service, and we were using under the direction of the forest men people employed entirely by the Indian Office.

Mr. VERTREES. Here is where the question arose; you see the significance of Mr. Ballinger's telegram to Mr. Pierce on page 95 [reading]:

Understand Valentine had arranged cooperative agreement between Forest and Indian Office for this year. In expenditure of our appropriations cooperation should mean transfer of experts to our rolls, so as to retain jurisdiction of our service. Will advise further when agreement and letter are received.

Mr. VERTREES. Now, I call your attention in that same connection—will you give me the opinion of Mr. Pierce. I would like to call the committee's attention to that because it is proper to clear this matter up, because there has been some confusion. On page 96 of Senate document you will observe there the ground upon which Mr. Pierce predicates his opinion, and it will be seen that that opinion is based upon the advice of the law officer of the department. He quotes:

All men so employed and all those already employed in forest work on Indian reservations *shall constitute a part of the force of the Forest Service, responsible directly and only thereto.*

It is italicized. That was the thing that gave trouble to the gentlemen of the Interior—that their men had paid all their money out on this specific appropriation under this cooperative agreement, and were paid wholly under the authority of the forest people, and they said, "No, that is illegal," and that is the ground of the decision, as I understand it. It is an altogether different case from that which I think some of the committee have gotten from the previous statement under the examination, particularly by Senator Root, of Mr. Pinchot. The question arose definitely and solely with regard to the number of men—I have forgotten the number, but a long list recommended under the civil-service rules to be Indian Bureau men.

Mr. PINCHOT. It has been clear throughout.

Mr. VERTREES. Am I not correct in the way I have stated it?

Mr. PINCHOT. There were both men in the Forest Service and men in the Indian Office under the direction of the men of the Forest Service, and it was so provided in the contract.

The CHAIRMAN. Do you offer all those vouchers in evidence?

Mr. VERTREES. Yes, sir.

Mr. OLMSTED. Would one of them be sufficient?

Mr. VERTREES. Yes, sir; I think one will be sufficient after it has been examined by Mr. Pinchot.

Mr. PEPPER. The question that Mr. Vertrees raises is proper matter for argument of counsel. Would it not be wise for Mr. Vertrees and myself, after the adjournment, to select documents from those on file which will give rise to questions of law, and postpone the consideration of all of them until the committee is ready to hear the subject? I do not desire to get up and reply now to Mr. Vertrees.

Senator FLINT. I understand that there is no dispute between Mr. Vertrees and Mr. Pinchot, but there are some men just in the position Mr. Vertrees states it.

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Mr. PINCHOT. Perfectly.

Mr. VERTREES. You say that the question that was up depends on those. In that regard I refer to page 91, and I would like the attention of the committee to that page of the Senate document. There is a document on which the question arose. As I say, it appears on page 91 in a letter dated July 8, 1909, and the commissioner says:

JULY 8, 1909.

The SECRETARY OF THE INTERIOR.

SIR: I have the honor to inclose herewith a list of positions and salaries for employees required to carry on forestry work on the different Indian reservations in the United States, under authority given and appropriation made by act of Congress approved March 3, 1909 (35 Stats., 781).

I recommend approval.

Very respectfully,

R. G. VALENTINE,
Commissioner.

And that letter included this list of Indian employees. It did not relate to any forest employee at all.

Mr. MADISON. It was approved.

Senator FLINT. I suggest that you offer in evidence that list of employees.

Mr. VERTREES. I now offer that letter which has been read in evidence, and also the list of employees that accompanied it, which is dated June 26, marked in pencil "approved by the department July 8, 1909," marked "B" at the bottom.

The CHAIRMAN. It is admitted.

(The list of employees is as follows:)

[Approved by department July 8, 1909.]

JUNE 26.

Number and kind of positions.	Length of service.	Annual salary.	Cost, fiscal year 1910.	Total.
	<i>Months.</i>			
Coeur d'Alene:				
4 forest guards.....	3	\$800	\$800.00	
1 forest guard.....	3	600	150.00	\$1,050.00
Colville:				
7 forest guards.....	4	900	2,100.00	
Do.....	1	900	525.00	2,625.00
Spokane (Colville):				
3 forest guards.....	4	900	900.00	
Do.....	1	900	225.00	1,125.00
Flathead:				
3 forest guards.....	6	900	1,350.00	
Do.....	3½	900	787.50	2,137.50
Fort Apache: 1 forest guard.....	5	600	250.00	250.00
Fort Lapwai:				
1 forest guard.....	12	1,100	1,100.00	
2 forest guards.....	12	900	1,800.00	2,900.00
Klamath:				
8 forest guards.....	3	900	1,800.00	
2 forest guards.....	3½	900	525.00	
7 forest guards.....	1	900	262.50	2,587.50
Moqui: 2 forest guards.....	5	600	500.00	500.00
Navajo: 2 forest guards.....	5	600	500.00	500.00
Pima: 1 forest guard.....	5	600	250.00	250.00

The CHAIRMAN. As to these vouchers, would it not be sufficient to take out one or two typical cases and print them, and not all of them?

Mr. VERTREES. Mr. Chairman, I think so; we will confer about it and do that.

The CHAIRMAN. You may agree on that.

Mr. VERTREES. I desire in this connection to call your special attention to a clause of a letter of Mr. Pierce, Acting Secretary, to Mr. Ballinger, dated July 10, 1909, on page 89 of Senate document, which I understand to be already in evidence—the whole letter.

The CHAIRMAN. The whole book is in evidence.

Mr. VERTREES. If it is not, I wish it put in. The clause that I wish to call attention to is the paragraph next from the last at the bottom. He says to Mr. Ballinger:

July 8, 1909, I signed a letter authorizing the employment of forest guards upon these reservations, so worded that the employees may be construed solely as employees of the Indian Bureau and under its control. Mr. Pinchot, Forester, says that this construction will abrogate the cooperative arrangement, so far as these Indian reservations are concerned.

That is correct, is it not, Mr. Pinchot?

Mr. PINCHOT. Entirely so.

Mr. McCALL. Is it your idea, Mr. Pinchot, that one department can transfer its appropriation to another department to be disbursed to employees in that department?

Mr. PINCHOT. The best answer to that, Mr. McCall, is that I am informed, and prepared to prove, that shortly after this agreement had been prepared it was informally submitted to the comptroller, not, however, passed upon by him, but informally submitted in connection with the question of the method of accomplishing these results, and that the method of accounting shown by the vouchers that had been offered in evidence was that prescribed by the comptroller himself.

The CHAIRMAN. Mr. Vertrees, if convenient to you, the committee will now take a recess until 2 o'clock.

(Accordingly, at 12.45, the committee took a recess until 2 o'clock.

AFTER RECESS.

The committee reassembled at 2.30 o'clock p. m.

The CHAIRMAN. The committee will be in order. Mr. Vertrees, you may proceed with your cross-examination.

GIFFORD PINCHOT—Cross-examination resumed.

Mr. VERTREES. Mr. Pinchot, if I understood you correctly in your statement as to the alleged refusal of some of the officers of the Department of the Interior, of the Land Office, to permit officers of the Forestry Service to see certain papers, your statement was that that was your information; that you knew nothing of it yourself. Is that correct?

Mr. PINCHOT. That is correct, in this sense, that I was told about it, and I had no personal knowledge; that is to say, I was not there when it happened.

Mr. VERTREES. Your own information is that which is communicated to you by some person that told you it had happened?

Mr. PINCHOT. Precisely, except, Mr. Vertrees—and I should like to make that point now, if I can, clear—that I have since had knowl-

edge of the matter from documents open to everyone, and I would like to know whether that is personal knowledge or not.

Mr. VERTREES. No, that is not.

Mr. PINCHOT. Not personal knowledge?

Mr. VERTREES. However, I have no objection to the documents. To what documents do you refer?

Mr. PINCHOT. Merely as the matter was mentioned in the record.

Mr. VERTREES. What record?

Mr. PINCHOT. In this record.

Mr. VERTREES. This record that you have been making here?

Mr. PINCHOT. My information is that it is mentioned in Senate Document 248.

Mr. VERTREES. To what do you refer, to the special document?

Mr. PINCHOT. In the regulations. My recollection is not clear; I understand it is mentioned in that document.

Mr. VERTREES. You refer to Mr. Ballinger's statement?

Mr. PINCHOT. As I say, my recollection is not clear as to where it happened, but I believe it is mentioned in this document.

Mr. VERTREES. In other words, it comes to this, that you personally have no knowledge of that matter?

Mr. PINCHOT. I have knowledge only that I got information from other people.

Mr. VERTREES. That is all I want to know. Now, in your evidence which appears on page 1287 of the record—which I will ask you to refer to, Mr. Pinchot—the third answer from the bottom; it is a long answer, and it is the last two or three lines that I wish to direct your attention to, where you speak of Love's report. You will find there that you stated to the committee that Mr. Love, the author of the report, denies indignantly that it is a favorable report.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Where did you get the information that he indignantly denied that it was a favorable report?

Mr. PINCHOT. Will you let me have that?

Mr. PEPPER. Yes; we will give it to you.

Mr. VERTREES. I presume you are looking at the record that you refer to the report on page 803 of the testimony, or rather it begins on page 799?

Mr. PEPPER. It is 798, down there where it is marked to the left.

Mr. VERTREES. Is that the paper that you refer to?

Mr. PINCHOT. The paper I refer to says—

Mr. VERTREES. Wait a minute; I did not ask you what it says, I asked you if that is the paper you referred to.

Mr. PINCHOT. It is.

Mr. VERTREES. Have you any other information than that paper on which you predicate the statement that Mr. Love indignantly denied it?

Mr. PINCHOT. None. He has, however, in his daily report a statement which is in substance a denial of it, but not indignant.

Mr. VERTREES. Then, so far as you are concerned, the statement which you made to this committee, that Mr. Love indignantly denied it, was predicated upon this report, or letter rather, of Mr. Love to the commissioner.

Mr. PINCHOT. It was.

Mr. VERTREES. And nothing else, so far as you are able to state?

Mr. PINCHOT. Nothing else.

Mr. McCALL. Is that the letter at the bottom of 798 and the top of 799 that you refer to?

Mr. VERTREES. Yes, sir; it begins on page 799.

Mr. McCALL. There is another letter beginning on page 799.

Senator PURCELL. Seven hundred and ninety-eight.

Mr. VERTREES. The letter in full is as follows—on page 799; there is one portion of it on 798.

Mr. MADISON. Read the portion of the letter which you claim shows that he indignantly denies that he thought that it was a favorable report.

Mr. PINCHOT (reading the letter):

Your letter states:

"The records here show that eight days previous to that time (August 10) you had made an informal report to this office on the Cunningham group of entries (embracing 26 entries) which in effect recommended that they be clear listed for patent, though you never mentioned at any time to Mr. Jones that you had submitted any such report."

I beg your pardon: that report did not "clear list" those entries for patent, but, on the contrary, raised a question as to their regularity, although I had previously "clear listed" them. But this is of little importance.

Mr. VERTREES. I will read what follows that, Mr. Pinchot, for the purpose of showing what it is that Mr. Love refers to, and that he did not mean in any way to qualify his clear listing and that his report shows that—

The record shows that at different times between January 17, 1907, and May 2, 1907, I recommended these entries as completed; the last two, months before I ever heard of Jones.

The status of that group was explained to him at our earliest meeting, and by him to Judge Ballinger upon our first visit to him. I furnished Jones a copy of the affidavit I had drafted and used in each instance. It was he that showed it to Judge Ballinger when he pronounced it complete. Jones used this very affidavit in his interview with J. R. Young, of the Young group, as your records will show.

Judge Ballinger, upon one of our calls, had expressed the opinion that the transfer of coal lands to a company after entry, but prior to issuance of patent, invalidated entry. This was contrary to my recollection of decisions, but I could not be sure, and but mildly dissented. There was a rumor to the effect that the entrymen of the Cunningham people were taking measures for the organization of a company and transfer to it of their holdings. After we left Judge Ballinger that day, that I spoke to Jones of the view he had taken and of the rumor regarding the Cunningham people and how they would be affected if the judge's view obtained I have not a reasonable doubt, for it was the custom to discuss, after a visit, leading subjects brought up at such.

Later, on August 1, I met Cunningham in the Rainier Grand Hotel and inquired if his people were not forming, or had not already formed, a company as above indicated. He said those only that had gone to entry were in the deal, and he gave me a brief outline of the plan. I told him of Judge Ballinger's expression on the subject, and that I intended to advise the General Land Office of his course, so that the entries of his people might be held for cancellation if the department saw fit.

Jones was absent from Seattle for about a week, and his daily report will show that he was so absent on the 1st of August and on the 2d, when I addressed to your office the letter in this matter to which you refer, advising you of the most recent developments in the Cunningham matter, as above.

As stated above, I had already recommended patent, "clear listed" these entries on their merit as being without fault at date of entry. When it developed that acts had occurred subsequent to entry that, by authority higher than I, was condemned as illegal, I reported such, in the letter calling attention to my previous favorable reports, you could then ignore former reports and hold entries for cancellation. I can not imagine what exception you can take in any act of mine in above matter.

Now, that that may be clearly understood, I call your attention to the letter of Mr. Love to Mr. Glavis, February 17, 1908, to which he refers, and which is found on page 87 of the record. The last clause of that letter reads as follows:

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After entry, to wit, August 2, 1907, I advised the General Land Office that Cunningham had informed me of efforts pending, initiated subsequent to entry, looking to the promotion of a company and the pooling of the lands. This was because in a conversation in his office in Seattle, Judge Ballinger stated that such a proceeding prior to issuance of patent was not allowable, and it was plainly my duty to advise of such a material fact. The foregoing, I believe, covers all material action taken in these matters. Inclosed you will find a blank copy of the affidavit referred to, secured from each applicant.

Respectfully,

H. K. LOVE,
Special Agent, General Land Office.

Now, referring to the paper which you say is an indignant denial, I would ask Mr. Pinchot if this was not the fact in the matter, that Mr. Love reiterated there that he had failed to clear list those claims on their merits—that is, on the facts—and that he adhered to that; saw nothing against that; but that in a conversation with Judge Ballinger at Seattle the judge had said to him that an arrangement or accommodation of that sort, even though it was made after entry, if it was made before the patent was issued, still it was illegal, and that while that was not his understanding of the law at all, yet inasmuch as Judge Ballinger had expressed it that way he thought it his duty to report it to the office. If that was the law, acting upon that principle of law, they might refuse to grant the patents. Now, is that not what Mr. Love says, and all that he does say?

Mr. PINCHOT. No, sir; it is not. In the first place, Mr. Love never did clear list an entry, and was not capable of it.

Mr. VERTREES. That is not the question.

Mr. PINCHOT. That is what you said.

Mr. VERTREES. The question is not whether Mr. Love was capable of that, but whether he said he had done so.

Mr. PINCHOT. He did not say he had done so. You ask me whether Mr. Love said he had clear listed in the entry. My reply is that he did not.

Mr. VERTREES. Did he not say on page 803: "The record shows that at different times between January 17, 1907, and May 7, 1907, I recommended these entries as completed."

Mr. PINCHOT. That is not a clear listing.

Mr. VERTREES. Does he say that it is not a clear listing?

Mr. PINCHOT. Certainly, it is not.

Mr. VERTREES. What is it?

Mr. PINCHOT. It is a report.

Mr. VERTREES. The report shows favorable for clear listing?

Mr. PINCHOT. He does not clear list.

Mr. VERTREES. That is just what I am saying to you.

Mr. PINCHOT. The special agent never clear lists.

Mr. VERTREES. That is what I am calling your attention to, but he reports whether there is anything against it, and the clear listing goes on at the chief's office upon this report.

Mr. PINCHOT. Precisely.

Mr. VERTREES. Now, does not Mr. Love say all the time that he reported favorably on the merits of this case. He said he had previously reported favorably on the merits of this case, but having discovered something that was unfavorable he qualified his previous report by sending that in, as I understand it. The point I ask is this, does he say he has discovered anything unfavorable whatever in the conduct of those people?

Mr. PINCHOT. So I understand.

Mr. VERTREES. Wait a moment. Does not Mr. Jones say:

I have got a legal proposition from Mr. Ballinger that I did not understand before, namely, that these people can not combine at any time before patent. I had labored under the impression that that might govern at any time after entry or initiation of entry, but the judge has upset the notion on that point, and I feel it my duty, therefore, to report to the office.

Mr. PINCHOT. What he says is this:

When it developed that acts had occurred subsequent to entry that, by authority higher than I, was condemned as illegal, I reported such in the letter calling attention to my previous favorable reports.

Mr. VERTREES. That is true.

Mr. PINCHOT. That certainly is not a clear list or clear listing report.

Mr. VERTREES. But the point I want you to speak of is, whether he is reporting on any facts, any new facts or additional facts, or anything that changes the status of these people so far as their conduct is concerned.

Mr. PINCHOT. He is reporting a conversation had with Cunningham in which Cunningham tells Love what the entrymen did.

Mr. VERTREES. He says that after it had gone to entry he thought Cunningham told him those only that had gone to entry were in the deal. That is on page 804.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. That is what Cunningham tells him.

Mr. PINCHOT. Yes, sir; Cunningham told him that; that is not mentioned in his letter of August 2.

Mr. VERTREES. Now he is stating the situation at this date, as to what was before him before, and I ask you now if there is any one word there in which he denies indignantly or otherwise that he had made a favorable report, that is, a clear-listing report on these claims.

Mr. PINCHOT. Certainly there is.

Mr. VERTREES. State it.

Mr. PINCHOT (reading):

I beg your pardon, that report did not "clear list" those entries for patent, but on the contrary raised a question as to their regularity.

Mr. VERTREES. But, Mr. Pinchot, is not the question raised not one of fact, but one of law predicated upon Judge Ballinger's erroneous interpretation of the law at that time—absolutely that and nothing else?

Mr. PINCHOT. Wait one moment.

Mr. VERTREES. I will wait a moment, but I will state another thing; was it not shown, and has it not been shown, that the Judge's views of the law as they are expressed—if that is correct—if he is correctly reported—was erroneous that you can make those agreements before patent, if it is made after the initiation of the entry, or after the completion of the entry—

The CHAIRMAN. After entry.

Mr. PINCHOT. After entry—there is a legal question involved in this matter, and in the Attorney-General's decision as to what initiation of entry means, that I am not capable of discussing. It is a very difficult and intricate question apparently.

The CHAIRMAN. It is after entry.

Mr. PINCHOT. After initiation of entry.

Mr. VERTREES. Well, after completion of entry.

The CHAIRMAN. After a completed entry. Put the question in that form.

Mr. VERTREES. Completed entry, and the judge had given the opinion that even though the entries were completed——

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. If the patent had not issued; so Mr. Love says there, while these combinations were illegal, or those associations were illegal. Now, does he not say that he had a different idea of the law, but that as he got it from higher authority that he thought he ought to report it, and the only thing he put in was that legal question and not a question of fact?

Mr. PINCHOT. I do not so understand it from his letter of August 2. I think he did state them.

Mr. VERTREES. What fact did he state?

Mr. PINCHOT. He stated his conversation with the Cunninghams.

Mr. VERTREES. But was not the conversation with the Cunninghams to the effect that after entry had been completed that the majority of these people had agreed——

Mr. PINCHOT. Maybe, as to 26 of them, but let me refer——

Mr. VERTREES. Well, that had entered into it, had it, that they had absolutely completed their entries before they agreed on them, and did not he stand on that proposition of fact all the way through and submit only the question of the legality of that which, of course, the office passed on and determined? Otherwise—for if the judge expressed that opinion, it was an erroneous opinion.

Mr. PEPPER. Mr. Chairman, there is among the records produced on call a letter from Mr. Love bearing date of the day before the document which is under consideration, namely, August 1, 1907, Love, special agent, to the register and receiver at Seattle.

I hand this to Mr. Vertrees, thinking it had better go into the record at this point, and perhaps it may have some bearing on the question now asked. I think you will find that at least one case where the case had not proceeded to final entry, when he did not prove up to August 4, 1907.

Senator FLINT. Are you waiting for an answer to the question?

Mr. PINCHOT. What is the question?

The CHAIRMAN. The stenographer will read the question.

(The stenographer read the question as follows:)

Mr. VERTREES. Well, that entered into it, did it, that they had absolutely completed their entries before they agreed on them, and did he not stand on that proposition of fact all the way through and submit only the question of the legality of that, which, of course, the office passed on and determined otherwise, for, if the judge expressed that opinion, it was an erroneous opinion.

Mr. VERTREES. I will state it over again. I will ask you to state whether or not after you had examined Mr. Love's letter if it is not what Mr. Love said in substance, that he had reported favorably on those claims so far as the matters of fact were concerned; that he had had a conversation with Judge Ballinger in which the judge had stated, as a matter of law, that if there was an agreement or association made at any time before the patent issued, he would know the entry had been completed, that then the agreement would be unlawful; and that statement having come from that higher authority, he felt it his duty to report that.

Mr. PINCHOT. My answer is that in the clear listing—in the Love report upon which these claims were clear listed—there is, so far as I discover, no record whatever of a conversation with Mr. Ballinger, and that there is a record of fact.

Mr. PEPPER. That is on page 25 of the list of orders.

Mr. VERTREES. You say there is no reference at all?

Mr. PINCHOT. In the report. In the letter of August 2, upon which the clear listing is said to have been done, there was no reference whatever to a conversation with Mr. Ballinger.

Mr. VERTREES. But we are now talking about your statement that Mr. Love had indignantly denied that he had clear listed those claims; that is, reported them favorably for clear listing.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, is there not a reference in there to that?

Mr. PINCHOT. There is a reference in another letter.

Mr. VERTREES. But that is the letter you base your statement on, the other letter.

Mr. PINCHOT. I base my statement as to its being an indignant denial, and I have repeatedly read you that indignant denial.

Mr. VERTREES. You base it on his letter, which is found on page 799 of the record?

Mr. PINCHOT. I base it on a statement in that letter.

Mr. VERTREES. Now, I ask you if in that very letter he does not say expressly that he would see Judge Ballinger—

Mr. PINCHOT. He does.

Mr. VERTREES. And had taken an opinion of the Judge?

Mr. PINCHOT. That Judge Ballinger had expressed the opinion that the transfer of coal lands to a company after entry prior to issuance of patent invalidated the entry.

Mr. VERTREES. He says that was contrary to my recollection of the decision, but I could not be sure, and but mildly dissented.

Mr. PINCHOT. Yes. He said, however, that he felt it his duty to bring it in.

Mr. VERTREES. What I am on is that so far from indignant denial, does he not show that this question that he presented was a legal question and not a question of fact?

Mr. PINCHOT. A long way from that. There was an indignant denial.

Mr. PEPPER. With Mr. Vertrees's permission, Mr. Chairman, is not the situation clear? This letter of August 2, written by Mr. Love, is styled by Mr. Ballinger and the Department of the Interior as a recommendation of the Cunningham claims for clear listing, and it is stated by them to have been a favorable report. Mr. Pinchot has stated that Mr. Love did not regard it as a favorable report; that is to say, that Love did not intend that patents should be clear listed on that report, and Mr. Pinchot, upon being asked for his authority, turned to Mr. Love's own words and read them to Mr. Vertrees. I do not see how we can get much further than that. The situation is clear.

The CHAIRMAN. I think you will find by examining the record, and I call your attention to page 798 of the testimony, what Mr. Jones or Mr. Love states in these letters:

The record shows that at different times between January 17 and May 7, 1907, are recommended these entries as completed; the last two months before I ever heard

I want to say to counsel—and I think if you look it up you will find—that those are recommendations made to the register and receiver of the land office at Juneau, recommending the allowance of these entries to those persons, but those letters are not on the file. I called for them myself.

Mr. BRANDEIS. They are here, Mr. Chairman.

Mr. PEPPER. The letter I have just handed to Mr. Vertrees is a letter of August 1, 1907, in which Love writes to the register and receiver and specifies a number of these Cunningham claims, at least one of which had not proceeded to final entry, and did not until the following October.

The CHAIRMAN. They were other letters to officers—

Mr. PEPPER. The one that I referred to seems to me to show that there was abundant reason for going back to the statement of Cunningham, because in that letter that Mr. Rasch has in his hand, Mr. Cunningham, as reported by Love, makes this statement: That the Cunningham claims had laid up when they went to final entry; that they would form a corporation, and as each man proved up he went into the corporation, and they had strong hopes that the fellows who had not yet proved up would do that when they reached that happy stage. If that is a clear listing recommendation, I want to know it.

The CHAIRMAN. At all events we have this letter of Love's before us of April 16, 1908, and I take it that the committee will be able to judge as to the meaning of that letter.

Mr. VERTREES. Is this not true, Mr. Pinchot, that in this letter to which you referred on page 803 of the testimony, Mr. Jones uses this language—does he not say:

I beg your pardon, that report did not clear list those entries for patent, but on the contrary raised a question as to their regularity, although I had previously clear listed them.

Mr. PINCHOT. It does; I have read that repeatedly.

Mr. VERTREES. Now, is not that question of regularity that he refers to the legal question which I have just discussed with you in the former questions and answers?

Mr. PINCHOT. If it is, Love made no report or reference to it whatever in the letter in which he says he raised it.

Mr. VERTREES. Now look at page 451 of Senate Document 248. You have it?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Does he not state there the conversation he has had with Mr. Cunningham, the very one that must be referred to in the other letter?

Mr. PINCHOT. He states that conversation.

Mr. VERTREES. And does he not say that at different dates he has recommended to the register and receiver at Juneau the allowance of the applications of the above entrymen?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. But does he not add that he believes the action of entrymen, as above set out, to be liable under the law?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. "But deemed it proper to lay the information before you."

Mr. PINCHOT. Certainly.

Mr. VERTREES. That is to say, laying before him the very question which the other letter showed?

Mr. PINCHOT. Not at all. Why not let him say what he does, instead of explaining it that way?

Mr. VERTREES. Does he not say:

In a recent conversation with Mr. Cunningham, who is fully informed on all matters past and all future plans of his principals, he stated that it had always been the hope of these several persons that arrangements might be effected after entry for the joint working of the lands, and that since entry in the local office an effort had been made by him to secure the formation of a company from amongst the entrymen for the purpose of developing and operating a coal mine of the tracts so entered.

Now, does he not sharply put the question from the statement that his information was that the arrangement was made after entry?

Mr. PINCHOT. He says that precisely, just as you say.

Mr. VERTREES. He does put that question—the legal question which was raised.

Mr. PINCHOT. No, sir; he states there definitely, not a legal question before that, but a question of fact.

Mr. VERTREES. Does it not say:

I believe the action of entrymen toward the formation of a company pending patent, as above set out, to be allowable under the law.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. You say that is not a favorable report?

Mr. PINCHOT. I certainly say it is not a favorable report.

Mr. JAMES. Mr. Pinchot, what language there makes it in your judgment unfavorable? Just read that. It is not very long.

Mr. PINCHOT. He says:

In a recent conversation with Mr. Cunningham, who is fully informed on all matters past and all future plans of his principals, he stated that it had always been the hope of those several persons—

Mr. JAMES. Had always been the hope?

Mr. PINCHOT. Yes, sir.

Mr. JAMES. And therefore it was a conspiracy or agreement entered into before the entry?

Mr. PINCHOT. Precisely.

Mr. JAMES. And therefore would invalidate their right to patent?

Mr. PINCHOT. Precisely. It seems to me absolutely clear not only from what Mr. Love says about his own report, and he naturally ought to know what he meant, but by the contents of the report itself.

Senator PURCELL. He says has hope after entry.

Mr. JAMES. He says that it has always been the hope?

Senator PURCELL. Always been the hope after entry.

Mr. JAMES. But the law is if that was the agreement before entry and after the entry they did the thing—

Mr. GRAHAM. But that hope constituted a statutory fraud.

Mr. JAMES. That is the point.

Mr. PINCHOT. This report, in the mind of any man who is anxious to protect the public interest, instead of being taken, in my judgment, as a report upon which the claim should go to patent, should in itself have prevented further action.

Mr. DENBY. I thought we went over that once, and agreed that an unexpressed hope in the mind of a man could not constitute statutory fraud, but only when that hope was expressed it would become fraud.

Mr. GRAHAM. It was expressed here, however, or we would not know about it.

Mr. DENBY. To prevent an erroneous statement going into the record, that the unexpressed hope constituted fraud.

Mr. GRAHAM. Perhaps manifested would be better than expressed—if it were manifested.

Mr. JAMES. It would be very hard to prove an unexpressed hope.

The CHAIRMAN. It might be a statutory fraud, however.

Mr. VERTREES. Now, Mr. Pinchot, I refer to the letter which was handed to you by your counsel, dated August 1, 1907.

Mr. BRANDEIS. It has not been handed to him yet.

Mr. PEPPER. He has not read that letter as yet.

Mr. VERTREES. Are you going to put it in evidence?

Mr. PEPPER. I will offer it, with your permission.

Mr. VERTREES. Just offer it now.

Mr. PEPPER. I offer it. It is as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Seattle Wash., August 1, 1907.

HON. REGISTER AND RECEIVER,
U. S. Land Office, Juneau, Alaska.

SIRS: I have the honor to request reference to coal-land locations as follows: W. H. Warner, Survey No. 66; Joseph H. Neill, Survey No. 52; Reginald K. Neill, Survey No. 45; Frederick Burbidge, Survey No. 43; W. W. Baker, Survey No. 38; and Miles C. Moore, Survey No. 60, and to inclose herewith affidavits made by respective claimants therein as supplemental to the evidence at hand.

I would respectfully request that these affidavits and this communication be made part of the record in each case.

I have had an interview to-day with Mr. Clarence Cunningham, agent in these matters and in some 28 adjoining claims for which entries have already been made. Mr. Cunningham is perfectly familiar with every phase of these matters that can affect the bona fides of same, as well with regard to future plans of claimants as with methods and intents prior to entry.

He advises me that it has always been the hope of all his principals that arrangements might be effected after entry for the joint working of the lands, and that since entry in your office an effort has been made by himself to secure the formation of a company from amongst those already of entry only, for the purpose of developing and operating a coal mine of the tracts so entered: that for such purpose a meeting of part of such entrymen was recently held at Spokane and a committee appointed for the purpose of promoting the organization of such a company and to secure the transfer to a designated trust company of the respective holdings, subject to the perfection of such plans. He assures me that those not already of entry are not concerned in this scheme, although it is hoped they too may be induced to join at a later date.

He asserts that at this present date there is not any such company in existence, or any transfer made to a trust company, as above indicated, but that the matter is pending.

In view of the foregoing, and of the fact that the department may wish to make investigation of these entries, with others of similar character in Alaska, otherwise than through myself, I would respectfully recommend that these cases be forwarded to the General Land Office without entry at this time, that it may not be embarrassed in the premises.

I may say that from as careful inquiry as possible, and which has been reasonably satisfactory, I am convinced that each of these locators took his claim in good faith for his own exclusive benefit, without any agreement with another governing its future disposition, although it was contemplated by all for whom Mr. Cunningham has acted that after entry a joint company for development and mining would be organized, and that such condition has obtained in each case to and subsequent to entry, including the cases above described.

As all of the Cunningham agency cases are of like character, those of record in your office and now pending before the General Land Office, as well as the above now seeking entry, I would respectfully suggest that this letter be made a part of the record in each case.

Very respectfully,

H. K. LOVE,
Special Agent, G. L. O.

Senator FLETCHER. What is the date of that letter?

Mr. PEPPER. August 1, the day before the so-called "clear-listing recommendation" of Love.

Senator FLETCHER. August 1 of what year?

Mr. PEPPER. August 1, 1907, and the letter which Mr. Pinchot has been interrogated about is the letter of August 2. The report, I should say, upon which the clear listing was afterwards accomplished, was August 2, 1907, and I call your attention to page 817 of the testimony, to the daily report of Agent Love, in which, under date of August 2, he makes this notation: "Letter to G. L. O. reporting recent action toward formation of coal company taken by entrymen of the Cunningham group." That is the characterization of his document in his report. I do not mean the one that I have read is the one he so characterizes, but the letter of August 2, I think, is the one which he characterizes in the way I have indicated, in his daily field report.

Mr. VERTREES. I will ask you, Mr. Pinchot, since that has been presented, if the letter to which he refers is not a letter to the General Land Office—the letter to the General Land Office on page 817.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And it, the letter which was read in full by Mr. Pepper, is not the letter to the register and receiver at Juneau?

Mr. PINCHOT. Certainly.

Mr. VERTREES. And is not this true, that the letter to which this memorandum refers, that is to say, the letter of August 2, 1907, found on page 451 of Senate document, refers to 25 of the Cunningham group.

Mr. PINCHOT. I have not counted them.

Mr. VERTREES. Which had been previously entered, and that this report or letter to the receiver or register at Juneau, refers to other persons of the group not mentioned at all in the letter of August 2 to the General Land Office or to the commissioner.

Mr. PINCHOT. I do not know without comparing them.

Mr. VERTREES. I wish you would compare them to see if that is not true.

Mr. PEPPER. The letter itself shows that these names are the names of men who have not proved, and the other letters show the names of men that have proved up.

Mr. OLMSTED. That is what I wish to bring out, that that is the fact.

Mr. PINCHOT. Let me add, that after having referred to these names for the first two paragraphs, it goes on and specifies at length an interview with Clarence Cunningham, which is the same interview mentioned on August 2.

Mr. OLMSTED. And stated substantially the same.

Mr. PINCHOT. Stated more strongly.

Mr. OLMSTED. Having good faith that it is.

Mr. PINCHOT. No; the other way.

Mr. GRAHAM. I see there, Mr. Vertrees, it suggests the reference to the Land Office for investigation.

Mr. VERTREES. Does he not say in this letter:

And which has been reasonably satisfactory, I am convinced that each of these locators took his claim in good faith for his own exclusive benefit without any agreement with another governing its future disposition?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Let me finish [reading]:

Although it was contemplated by all for whom Mr. Cunningham has acted that, after entry, a joint company for development and mining would be organized, and that such condition has obtained in each case to and subsequent to entry, including the cases above described.

Mr. PINCHOT. It says that.

Mr. VERTREES. Is not that the statement?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. And he suggests that this letter be made part of the record in each case?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Was it ever made a part of the record in any case, and did it ever leave the office of the register and receiver at Juneau until it was sent down within the last three weeks?

Mr. PINCHOT. I have no personal knowledge of that.

Mr. VERTREES. You do not know how that is?

Mr. PINCHOT. But I would like to read that part of it which establishes my contention [reading]:

In view of the foregoing and of the fact that the department may wish to make investigations of these entries, with others of similar character, in Alaska, otherwise than through myself, I would respectfully recommend that these cases be forwarded to the General Land Office without entry at this time that it may not be embarrassed in the premises.

The CHAIRMAN. That refers to claims not entered?

Mr. VERTREES. It refers to this land specifically.

The CHAIRMAN. It does not refer to the Cunningham claims, because they were entered.

Mr. BRANDEIS. These were some of the Cunningham claims. The first claim mentioned was before entry, the Warner claim.

Mr. GRAHAM. Beginning with the word "although," please read a few lines.

Mr. PEPPER. Some of the claims have proved up in March and April of 1909, and the others not until the following October, and this refers to some of those that had not proved up at that time.

Mr. GRAHAM. Near the end of the letter there is language that amounts to a proviso. I wish you would read it again, if you can find it; if not, pass on. It begins "although;" I would like to hear that again.

Mr. PINCHOT. Yes, sir [reading]:

I may say that from as careful inquiry as possible which has been reasonably satisfactory, I am convinced that each of these locators took his claim in good faith for his own exclusive benefit, without any agreement with another governing its future disposition, although it was contemplated by all for whom Mr. Cunningham has acted that, after entry, a joint company for development and mining would be organized, and that such condition obtained in each case to and subsequent to entry, including the case above described.

Mr. GRAHAM. If the statement following the word "although" proved to be a fact, could the claims go to patent under the law?

Mr. PINCHOT. My understanding is that they could not [reading]:

Although it is contemplated by all for whom Mr. Cunningham has acted that, after entry, a joint company for development and mining would be organized.

Mr. PEPPER. It was a question whether each contemplated by himself?

Mr. VERTREES. Well, no. We understand it in its last analysis that your statement of his indignant denial was predicated on the letter to which you have referred.

Mr. PINCHOT. It is predicated on his own statement.

Mr. VERTREES. Well, that is the letter, is it not?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Well, then, yes answers my question?

Mr. PINCHOT. Yes.

Mr. VERTREES. You said something about reclamation of cooperative certificates in your written examination?

Mr. PINCHOT. I did.

Mr. VERTREES. Now, what are they?

Mr. PINCHOT. Well, that is a matter of which I have comparatively little knowledge, and it will doubtless be discussed before the committee by Mr. Garfield. I should be glad to give you my understanding, if you would like to have it.

Mr. VERTREES. Very well. We would like to have it.

Mr. PEPPER. I would like to interrupt. When we reached that point in examination in chief I called attention to the fact that the discussion of reclamation certificates in the President's letter and in Mr. Ballinger's letter was a question raised by Mr. Garfield and not by Mr. Pinchot, and I asked Mr. Pinchot if it was not a fact that he had no specific knowledge of that matter. I did that so as not to waste the time of the committee, and I submit under that sort of examination in chief it would not be possible to cross-examine. I merely mentioned it in reading the Garfield letter, and Mr. Pinchot—I do not remember the exact language, Mr. Vertrees, of his examination in chief, but substantially it was this, that he said that he had no knowledge of that matter, and that he had not raised the question. I think it would really be a wise thing not to go into that, because Mr. Garfield did raise the question, knows about it, and will testify.

Mr. VERTREES. I do not propose to go into the details with Mr. Pinchot, but far enough to show that there was a general question of law, upon which Mr. Garfield, with whom he was cooperating, and Mr. Ballinger differed, and as accounting for Mr. Ballinger's attitude and action, and although Mr. Garfield had issued or directed and authorized the issuance of these cooperative certificates—a large amount had been issued, if I remember correctly, something like \$500,000—that Mr. Ballinger put an end to it, and in that action he was sustained by the opinions of both the comptroller and the Attorney-General. I was going to ask this gentleman if he did not know that such was the fact?

Mr. PINCHOT. My answer would be that I have no personal knowledge of the matter, but I understand that the question was submitted to the Attorney-General on a statement of facts, which I also understand to be erroneous, and that a decision was rendered upon that erroneous statement of facts.

Mr. VERTREES. Well, what I wish to get at—I will bring out another question—that there was a system adopted by Mr. Garfield as Secretary of the Interior, of which you approved, that was good?

Mr. PINCHOT. Of which I had very little detail knowledge, but which I thought was good.

Mr. VERTREES. It did not require that for you to approve it; but you approved it, thought it was good, and under it some \$500,000

or thereabout issued, were they not, of these cooperative certificates, were they not?

Mr. PINCHOT. I do not know.

Mr. VERTREES. Well, a large amount.

Senator FLINT. Now, Mr. Vertrees, what is the use of asking this witness about something that was not in his department at all? It is in the Reclamation Service. I am somewhat familiar with that matter myself. I protested as strongly as I could against the issuance of them, and I do not know what this witness or his department had to do with it.

The CHAIRMAN. The Senator from California——

Mr. VERTREES. He had mentioned it, and it was something that he had——

The CHAIRMAN. The Senator from California is oblivious of the fact that in this conservation matter we are practically boxing the compass.

Senator FLINT. No; I do not know that we are boxing the compass. The witness is asked something that does not apply to his department at all. I understand that Mr. Newhall or Mr. Garfield is going to testify in regard to all those certificates.

Mr. PEPPER. Not only that, but Mr. Vertrees is in error in saying that Mr. Pinchot mentioned it. The fact is, as the committee will remember, that two letters went to the President, both of which were referred by him to Mr. Ballinger, one a letter of Mr. Pinchot's of November 4, and another letter of Mr. Garfield's of November 6. Mr. Ballinger submitted a letter which was a reply to both, inasmuch of Mr. Ballinger's letter, which was a reply to Mr. Garfield's letter, he dealt with the question of reclamation certificates which had been mentioned by Mr. Garfield, and not by Mr. Pinchot. Fearing that Mr. Pinchot might be questioned upon a subject upon which he could not enlighten the committee, I took pains in the examination in chief to bring out the fact that he had not raised the question and that he did not know about it. If that is the purpose of the cross-examination, I guess we must listen to it.

Mr. OLMSTED. Was his letter upon that subject? You said he wrote a letter to somebody. Was it upon that subject?

Mr. PEPPER. Mr. Garfield, in writing to the President——

Mr. OLMSTED. I thought you said Mr. Pinchot also wrote a letter.

Mr. PEPPER. Mr. Pinchot, on November 4, wrote a letter to the President. On November 6 Mr. Garfield wrote a letter to the President. Mr. Garfield's letter raised a certain question respecting the reclamation certificates.

Mr. OLMSTED. What I asked was whether Mr. Pinchot's letter had referred to that subject at all?

Mr. PEPPER. It did not mention it.

Senator FLINT. It does not seem to me that this witness knows anything about it. It is not proper cross-examination.

Mr. VERTREES. I accept that suggestion, as he does not seem to know anything about it; I will not ask him. I will go to something that you probably do know something about, Mr. Pinchot, and that is your forestry students.

Mr. PINCHOT. Yes.

Mr. VERTREES. Now, tell the committee about them.

Mr. PINCHOT. You mean the forestry students?

Mr. VERTREES. Students at the forestry colleges.

Mr. PINCHOT. Now, I think there is a misunderstanding in your mind.

Mr. VERTREES. Probably so.

Mr. PINCHOT. I think likely. You mean forest students at forest colleges, or at agricultural colleges.

Mr. VERTREES. What I am getting at is the employees of the Forestry Department that you sent to college after they were employees in the government service and in the government pay. They are the folks I am talking about.

Mr. PINCHOT. In the sense in which those words are usually used, I never did.

Mr. VERTREES. What did you do?

Mr. PINCHOT. That I will be very glad to tell you, now that I know what your question refers to.

Mr. VERTREES. That is what I am trying to get at.

Mr. PINCHOT. Good. Now this was the fact: The Forest Service found it necessary to get for rangers through the western countries men who were educated as far as possible in the duties of a ranger, but who were not completely trained; we could not find them; they did not exist in the country, who were completely trained in the duties of rangers. The rangers are the men who come in close contact with the users of the national forest, and upon the quality of the rangers, their capacity to do their work and their understanding of it, depends more than upon any other single thing the success of the whole service. Finding that we could not get men who were fully trained, both in the work in the field and in the regulations, etc., we began by gathering rangers together from place to place, and in giving them instructions through our own men. Twenty or thirty rangers would be gathered together in a town; officers of the Forest Service would go to that place and spend a week with these men, going over all their problems and explaining the regulations to them, and teaching them their work. That was found to be absolutely essential. We extended it then by gathering these men together into camp in larger numbers, and sending our own men to give them courses for several weeks—eight or ten weeks; I am not sure that the schools in camp lasted as long as that. And this was found to be still more advantageous.

Then it was suggested by some of the agricultural colleges in the West that they were willing to give courses as prescribed by our men, lasting from eight to twelve weeks, and which some forest men would teach, and to which we could send our agents for the purpose of acquiring information. That was absolutely necessary they should have in dealing with the public. It was one of the most useful things we have ever done, and more effective in raising the standard and quality of the Forest Service in the field than any other single thing we have ever undertaken; I mean the work we had known and had experience in in the way of training rangers. We sent no men to college in the sense in which that term is used; we simply ordered them to go where they could get instructions in their duties, partly from officials of the Government and partly from other men, and we did so on the basis of a very considerable experience and with the full knowledge that that was the best scheme open to us for raising the standard of the work. That is a brief summary of what we did.

Mr. VERTREES. Well, you have described the process by which you led up to the thing. That I am not trying to get at. What I

am trying to get at is the thing that you finally did, if you did send them to college.

Mr. PINCHOT. Not in that sense.

Mr. VERTREES. What were those places that you sent them to; were they not colleges?

Mr. PINCHOT. When you say you have sent a man to college, the inference is that you have sent him to take a full college course.

Mr. VERTREES. No; I do not want to go into the length of the course. These were agricultural colleges that you sent them to, were they not?

Mr. PINCHOT. We send them to attend courses of instruction at agricultural colleges.

Mr. VERTREES. And these people that you sent were rangers?

Mr. PINCHOT. They were rangers in the government pay.

Mr. VERTREES. In the government pay, employed as rangers to do forest duty in a general way, were they not?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. But you thought that they could be improved and made more efficient if they had the benefit of a course of instruction at these agricultural colleges, and so you sent them?

Mr. PINCHOT. We did.

Mr. VERTREES. How many did you send?

Mr. PINCHOT. I think there were somewhere between 150 and 200.

Mr. VERTREES. And these men were paid their salaries all the time?

Mr. PINCHOT. They were paid their salaries and expenses. I am not sure whether they were paid expenses at all the colleges, but I know they were at some.

Mr. VERTREES. What colleges did you send them to?

Mr. PINCHOT. Washington, Utah, Colorado, I think, and I think Montana; I am not entirely sure that that list is right.

Mr. VERTREES. And the basis on which you did it was that these employees in the government service could be improved by this course of instruction?

Mr. PINCHOT. Precisely.

Mr. VERTREES. Now, could not they have gotten that course of instruction before they became employees of the Government, just as well, if they had had the means?

Mr. PINCHOT. If they had the means and had known they were going to enter the service.

Mr. VERTREES. Just like anyone else who goes into the service?

Mr. PINCHOT. No, they could not have had that course; the particular men in question could not have gotten in, because the courses were only established after they had come into the service.

Mr. VERTREES. But the instructions I speak of. It does not matter when they were established.

Mr. PINCHOT. No; the instruction was not given outside of these four courses.

Mr. VERTREES. That was then because that was fixed that way; but that instruction could have been given in that wise in other schools?

Mr. PINCHOT. But as a matter of fact it was not.

Mr. VERTREES. I know it was fixed that way.

Mr. PINCHOT. I do not understand the bearing of your question.

Mr. VERTREES. The bearing of my question is this, and it being framed up that way, that was so that there might be a reasonable excuse for sending these rangers to these colleges?

Mr. PINCHOT. No.

Mr. VERTREES. Why was it fixed that way? What was the peculiar reason it was fixed that way?

Mr. PINCHOT. It was fixed that way because we had a great need to meet in the Forest Service for the improvement of the public service, and that is the best way to do it.

Mr. VERTREES. But my question is why could not they have taken this course of instruction at any college in the country, as well as at these particular ones that were framed up in this way?

Mr. PINCHOT. If any of the other colleges had chosen to give that course, and there had been men who chose to take it, it might have been done; but, as a matter of fact, it was not done.

Mr. VERTREES. It could have been done?

Mr. PINCHOT. Yes; but it was not done.

Mr. VERTREES. In its last analysis wasn't it this—that these men, in the government service, in the government pay, were sent to these schools of instruction, these colleges, because you deemed it would increase the efficiency of their service?

Mr. PINCHOT. Certainly.

Mr. VERTREES. And you think—

Mr. PINCHOT. Not only of their service, but that of the other men with whom they came in contact.

Mr. VERTREES. Because they could go and teach those others as they were taught?

Mr. PINCHOT. They would raise the standard, because these men were sent there in the sense as a reward of merit; we picked one or two of the best men from the service.

Mr. VERTREES. As a reward of merit. Did the Forest Service prepare the civil-service questions for examination for rangers?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Did you not include these things in those questions?

Mr. PINCHOT. No, sir.

Mr. VERTREES. Why?

Mr. PINCHOT. Because we knew we could not get the men.

Mr. VERTREES. If that had been required as a standard, why was it not done as it is in every other department of the Government? Suppose you take any other department of the service that requires any sort of knowledge, are not the civil-service questions that relate to that department predicated upon the reasonable qualifications and business of that department?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Why could not the same thing have been done with reference to these rangers?

Mr. PINCHOT. For the very simple reason that we could not possibly expect men who get the salaries that we were able to offer as rangers to go through the course of instructions in advance in order to prepare themselves for a possibility of getting the work. It would not have been reasonable to ask them to do so.

Mr. VERTREES. Did the Forest Service assist in making the civil-service papers?

Mr. PINCHOT. They always did.

Mr. VERTREES. Could not the questions have been framed so as to get men who were reasonably competent?

Mr. PINCHOT. We could not have gotten men already equipped in this way by asking the civil-service questions.

Mr. VERTREES. What was the equipment that you could not have gotten?

Mr. PINCHOT. We could not have gotten men who knew enough of—for example, the methods of marking timber, the methods of securing reproduction, who were sufficiently expert at the same time in surveying, who were good woodsmen at the same time, who had a certain amount of drafting information, and a certain amount of botanical information, and at the same time knew something of physics.

Mr. VERTREES. Those things, could they not have been gotten at any other school or college?

Mr. PINCHOT. We could not have gotten men by the civil-service examinations who knew all those things, at the rate of pay we were able to give—is that clear?

Mr. VERTREES. No; it is not clear to me.

Mr. PINCHOT. Well, Mr. Vertrees, then I must assume the only reason why it is not clear to you is that you are necessarily entirely unable, being without experience in forest-service matters, to understand the restrictions and conditions under which we work.

Mr. VERTREES. I am unable to understand you, and I wish you would explain why in this peculiar department of the government service you have to have a college to send fellows to school after you get them, when it is not true of any other department?

Mr. PINCHOT. Suppose I put it this way: Suppose you have a civil-service position paying \$900 for a clerk, and you desire some one who can play the piano and the violin and was a first-class accountant, an expert in French, and a lot of other things like that, would you think it was any use to put all those things among the civil-service questions with the hope of getting some one of that kind? You would know in advance that it would not be possible to get anybody for that sum who had all those accomplishments. That is an exaggerated illustration, but I have been obliged to exaggerate it in order to make the thing clear.

Mr. VERTREES. Could you hold these forest-service men after these additional qualifications had been gotten for this price?

Mr. PINCHOT. We did.

Mr. VERTREES. You say you did. You mean by that they remained?

Mr. PINCHOT. Certainly.

Mr. VERTREES. There was no way for you to hold them?

Mr. PINCHOT. You mean, could we compel them to remain?

Mr. VERTREES. Yes.

Mr. PINCHOT. Certainly not.

Mr. VERTREES. In other words, it came to this, that there were men in the service to whom, as a reward, ought to be given this additional advantage?

Mr. PINCHOT. We picked the best men, those who had done the best work, and gave them this opportunity to rise in the service.

Mr. VERTREES. And gave them these additional qualifications at the Government's expense?

Mr. PINCHOT. For the Government's service at the Government's expense.

Mr. VERTREES. And under conditions under which they could have left the service immediately, if they had a mind to do it?

Mr. PINCHOT. They could have left the service if they had a mind to do it.

Mr. VERTREES. You thought that was right?

Mr. PINCHOT. I certainly did.

Mr. VERTREES. Isn't it a fact that the law officers and the comptroller thought it was wrong?

Mr. PINCHOT. The comptroller thought it was wrong on an ex parte presentation of the case, which was made secretly, without the knowledge of any member of the Forest Service, and obviously and clearly intended to bring about an adverse decision.

Mr. VERTREES. How do you know it was done that way?

Mr. PINCHOT. I was informed.

Mr. VERTREES. You were informed?

Mr. PINCHOT. I was.

Mr. VERTREES. You didn't know yourself?

Mr. PINCHOT. It depends upon the definition of my knowledge that you desire to apply—

Mr. GRAHAM. The plan, then, was similar to that pursued by school authorities in some places where they insist that teachers shall attend institutes and remain on the pay roll at the same time, believing that the attendance at the institute will increase the efficiency, and the school authorities or the people will get back value received by better work?

Mr. PINCHOT. Precisely.

Mr. VERTREES. The question, Mr. Pinchot, is not whether these men will increase the efficiency of the public service. I take it that education of the most of them will increase their efficiency in all the departments. The point I am getting at is that this was, even though it did increase the efficiency, it was allowable at the government expense, and I understand you to say that you insisted that it was?

Mr. PINCHOT. I did.

Mr. VERTREES. I will ask you if the comptroller did not give an opinion to the contrary?

Mr. PINCHOT. As I have already stated, the comptroller gave an opinion on the statement of facts which—I didn't say before, but I do say now—which omitted the essential considerations, and therefore was not a fair statement.

Mr. VERTREES. What was that essential consideration?

Mr. PINCHOT. The essential consideration was that it was necessary for the proper handling of national forests that this instruction should be given, and that the Secretary of Agriculture had money appropriated for all expenses necessary for the care, administration, and protection of the forests.

Mr. MADISON. Did you send them to any other than agricultural schools?

Mr. PINCHOT. No.

Mr. MADISON. Schools that were receiving support from the Government?

Mr. PINCHOT. They are.

Mr. MADISON. Every one of these receive \$25,000 a year from the Government of the United States?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. They receive more than that now; they receive \$75,000 a year.

Mr. MADISON. How much is it now? It is \$75,000 now, but at the time you sent them they were really receiving the \$25,000, were they not?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. They received \$25,000 at the time you sent those men there?

Mr. PINCHOT. I do not know the exact details, Judge Madison.

Mr. MADISON. But you know they were agricultural schools, receiving government aid?

Mr. PINCHOT. Yes, sir. They were receiving government aid.

Mr. MADISON. That you sent these men to?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. They were government employees?

Mr. PINCHOT. They were government employees.

Mr. MADISON. Did you have the hearty cooperation of the schools?

Mr. PINCHOT. The very heartiest cooperation of the schools.

Mr. MADISON. What was the result—I mean the result upon the men and upon your service?

Mr. PINCHOT. We had not had time to try the thing out fully, but the results upon the ranges already of having it known that such facilities would be afforded were very good indeed.

Mr. DENBY. Did they pay a matriculation fee at the colleges?

Mr. PINCHOT. None, whatever, I believe.

Mr. DENBY. There was no expense connected with it, except their living expenses?

Mr. PINCHOT. No.

Mr. JAMES. What salaries do these rangers get?

Mr. PINCHOT. From nine hundred to twelve and thirteen hundred dollars a year.

Mr. JAMES. When was this decision rendered by the department, about which Mr. Vertrees questioned you, relative to holding that this money could not be paid?

Mr. PINCHOT. It was rendered after my dismissal, or within a few days after.

Mr. VERTREES. How much money had been paid out to these so-called students?

Mr. PINCHOT. I am not informed.

Mr. VERTREES. You have no estimate of that?

Mr. PINCHOT. It would be a mere guess; I could hardly give it.

Mr. JAMES. You spoke of it being presented in ex parte way—who did that?

Mr. PINCHOT. The information I have—not of my own personal information—was to the effect that the matter was brought to the attention of the Secretary of Agriculture by Mr. McCabe, the solicitor of the department, and the letter submitting the question to the comptroller was signed by the Secretary.

Mr. JAMES. Secretary Wilson?

Mr. PINCHOT. Secretary Wilson.

Mr. JAMES. Did you ever talk to Secretary Wilson about sending these rangers to these schools?

Mr. PINCHOT. My impression is that I discussed the matter with him in October of last year, but I am not sufficiently clear about it to swear to it.

The CHAIRMAN. You stated, Mr. Pinchot, that their salaries ranged from \$900 to \$1,300 a year; did they not get an allowance for expenses besides?

Mr. PINCHOT. No. Some of the men got a small forage allowance to help them to keep their horses; but they sent in vouchers for their expenses, Senator, just what they happened to be.

The CHAIRMAN. Is that all the extra allowance they got?

Mr. PINCHOT. That is all the extra allowance they got, unless you could call a cabin and a pasture an extra allowance.

The CHAIRMAN. But when they were traveling, did they get any allowance for traveling expenses?

Mr. PINCHOT. No; just what they spent.

The CHAIRMAN. At those colleges, did it include their board there?

Mr. PINCHOT. It included their board in some cases.

The CHAIRMAN. Did you pay their board too?

Mr. PINCHOT. Salary, expenses, and board.

The CHAIRMAN. You not only paid their salary but also paid their board while they were at the colleges?

Mr. PINCHOT. Yes; I am not sure that that was the case in all the colleges, but I am sure it was in some.

Mr. VERTREES. Mr. Pinchot, I have in a newspaper here what purports to be the letter of Secretary Wilson submitting the letter to the comptroller?

Mr. PINCHOT. Yes.

Mr. VERTREES. I assume it is correct, but I do not know. As published here the Secretary of Agriculture says to the comptroller, among other things, this [reading]:

This arrangement comes to my attention now for the first time—

Mr. PINCHOT. Yes, sir.

Mr. VERTREES (reading):

and I share in the doubts entertained by Mr. McCabe as to the legality of the payment from a government appropriation of salary for time spent by employees of the service as students at an institution of learning, no matter what may be the character of the subjects they study.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES (reading):

If this plan can be legally carried on by the Forest Service, I see no reason why discrimination should be made against men employed in other branches of scientific work in the Department of Agriculture, which would involve the payment of salaries from appropriations made for the Department of Agriculture for meat inspectors at veterinary schools, chemists at chemical schools, pomologists, horticulturists, agronomists, and others at the various agricultural colleges, and the attendance of Weather Bureau employees at meteorological lectures at the various colleges having such courses.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES (reading):

It is true that some of the men might be made more efficient by such courses, and the plan would popularize the department among ambitious young men desirous of securing an education along technical lines, but I do not believe it was the intention of Congress that greater efficiency in the individual could be secured by paying from government funds for his education at a private or state institution of learning.

Mr. PEPPER. Whose brief is that that you are reading from?

Mr. VERTREES. The paper says:

The following is a letter which Secretary Wilson sent to the Comptroller of the Treasury, asking a ruling on the Pinchot plan of paying forest rangers for learning their business in colleges.

Mr. PEPPER. You mean that is the letter of submission which contains the language that you have used?

Mr. VERTREES. I read the language; I have not seen the original [reading]:

I am in receipt of a report from Acting Forester McCabe that approximately 200 forest rangers are attending the University of Washington, the University of Montana, the Utah Agricultural College, and the University of Colorado, for short courses in forestry at an expense to the Government of between fifteen and twenty thousand dollars a month; that these men have been sent to these institutions to take courses in forestry and have been assured by the Forest Service that their expense for transportation from their stations to the colleges and return, and their regular salaries for the time spent at the universities and colleges, will be borne by the United States.

The acting forester reports to me that as soon as he discovered this condition, entertaining grave doubts as to the legality of payment of salary from government appropriations to men attending institutions of learning, as students, he wired to all disbursing officers of the Forest Service, instructing them, until otherwise ordered, not to pay any salary or expense accounts to employees of the Forest Service incurred on account of attendance as students at universities or colleges.

This purports to be a letter of Secretary Wilson, and I will get an accurate copy if there is any question.

Mr. JAMES. What is the date of the letter?

Mr. VERTREES. January 24. There is some mistake about that, but it is dated January 24. I now have a copy of the opinion of the comptroller which is dated January 13.

Mr. JAMES. Which was rendered before the letter was written then?

Mr. VERTREES. This time before the newspapers got it. It says [reading]:

I am in receipt of your communication, bearing date of yesterday—

That would be the 12th of January—

with a request that I render a speedy advance decision as therein requested. The communication reads:

Now he sets it out, and it is addressed to the honorable the Secretary of Agriculture. That seems to me—I didn't have it at the time—but it seems to me substantially what I read there, but I would like, Mr. Chairman, to give the opinion of the comptroller in evidence, together with the statement therein submitted on the question of the case submitted to him, so that it may be seen just what the case was that was submitted to him.

The CHAIRMAN. Very well. Do you want to read it?

Mr. VERTREES. I will only read the last clause now [reading]:

The question presented, however, is not a question of administration, but one of power. There is nothing, as before stated, in the appropriation, *supra*, or in the law, that I have been able to find, which, in my judgment, lodges with you the power to send these rangers to college at the government expense, or authorizes you to use the appropriation in question to pay their salaries while away at college, which is only another way of expressing the same thought.

I therefore decide that you are not authorized, on the above statement of facts, to pay the salaries of these forest rangers for time consumed by them while in attendance at colleges, or their travel expenses going from their stations to said colleges or in returning therefrom.

Respectfully,

R. L. TRACEWELL,
Comptroller.

The CHAIRMAN. That is admitted in evidence. The letter referred to is as follows:

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, January 13, 1910.

The honorable the SECRETARY OF AGRICULTURE.

SIR: I am in receipt of your communication, bearing date of yesterday, with a request that I render a speedy advance decision, as therein requested. The communication reads:

"I am in receipt of a report from Acting Forester McCabe that approximately 200 forest rangers are attending the University of Washington, the University of Montana, the Utah Agricultural College, and the University of Colorado for short courses in forestry at an expense to the Government of between \$15,000 and \$20,000 a month; that these men have been sent to these institutions to take courses in forestry and have been assured by the Forest Service that their expenses for transportation from their stations to the colleges and return and their regular salaries for the time spent at the universities and colleges will be borne by the United States.

"The Acting Forester reports to me that as soon as he discovered this condition, entertaining grave doubts as to the legality of a payment of salary from government appropriations to men attending institutions of learning as students, he wired to all disbursing officers of the Forest Service, instructing them, until otherwise ordered, not to pay any salary or expense accounts to employees of the Forest Service incurred on account of attendance as students at the universities or colleges.

"I am informed that courses of instruction which are being attended as students by Forest Service rangers on government time are now being given at the University of Washington, the University of Montana, the Utah Agricultural College, and the University of Colorado. The term of instruction is from eight to ten weeks and the number of rangers in attendance at each school is from 40 to 60. It is probable that the total number will not exceed 200. The subjects of instruction include surveying, silviculture, dendrology, timber scaling, range management, and other topics. I am informed by the Forest Service that the character of the work is severely practical and in some ways comparable to the short course in agriculture given by some agricultural colleges for actual farmers, who come for a few weeks of instruction.

"This arrangement comes to my attention now for the first time, and I share in the doubts entertained by Mr. McCabe as to the legality of the payment from a government appropriation of salary for time spent by employees of the service as students at an institution of learning, no matter what may be the character of the subjects they study. If this plan can be legally carried on by the Forest Service, I see no reason why discrimination should be made against men employed in other branches of scientific work in the Department of Agriculture, which would involve the payment of salaries from appropriations made for the Department of Agriculture for meat inspectors at veterinary schools, chemists at chemical schools, pomologists, horticulturists, agronomists, and others at the various agricultural colleges, and the attendance of Weather Bureau employees at meteorological lectures at the various colleges having such courses. It is true that some of the men might be made more efficient by such courses and the plan would popularize the department among ambitious young men desirous of securing an education along technical lines, but I do not believe it was the intention of Congress that greater efficiency in the individual should be secured by paying from government funds for his education at a private or state institution of learning.

"I have the honor to ask to be advised at your earliest convenience whether, upon the statement of facts submitted, the salaries of these forest rangers for time actually consumed by them in attendance at the schools named and transportation expenses for such rangers from their stations to the colleges and return is a proper charge against the appropriation "General expenses, Forest Service, 1910."

The appropriation out of which the proposed payments about which you inquire must be made, if made, is the annual appropriation for the present fiscal year and reads:

"To enable the Secretary of Agriculture to experiment and to make and continue investigations and report on forestry, national forests, forest fires, and lumbering, but no part of this appropriation shall be used for any experiment or test made outside the jurisdiction of the United States; to advise the owners of woodlands as to the proper care of the same; to investigate and test American timber and timber trees and their uses, and methods for the preservative treatment of timber; to seek, through investigations and the planting of native and foreign species, suitable trees for the treeless regions; to erect necessary buildings: *Provided*, That the cost of any building erected shall not exceed five hundred dollars, to pay all expenses necessary to protect, administer, and improve the national forests, to ascertain the natural conditions upon which to utilize the national forests; and the Secretary of Agriculture may, in his discretion,

permit timber and other forest products cut or removed from the national forests, except the Black Hills National Forest in South Dakota, to be exported from the State, Territory, or the District of Alaska, in which said forests are respectively situated: *Provided*, That the exportation of dead and insect-infested timber only from said Black Hills National Forest shall be allowed until such time as the forester shall certify that the ravages of the destructive insects in said forests are practically checked, but in no case after July first, nineteen hundred and ten; to transport and care for fish and game, supplied to stock the national forests or the waters therein; to employ fiscal and other agents, clerks, assistants, and other labor required in practical forestry and in the administration of national forests; in the city of Washington and elsewhere to collate, digest, report, and illustrate the results of experiments and investigations made by the Forest Service; to purchase law books to an amount not exceeding five hundred dollars, necessary supplies, apparatus, and office fixtures, and technical books and technical journals for officers of the Forest Service stationed outside of Washington; to pay freight, express, telephone, and telegraph charges; for electric light and power, fuel, gas, ice, washing towels, and official traveling and other necessary expenses; and for rent in the city of Washington and elsewhere, three million nine hundred and eighty-six thousand dollars: *Provided*, That no part of the money herein appropriated shall be used to pay the transportation or traveling expenses of any forest officer or agent except he be traveling on business directly connected with the Forest Service and in furtherance of the works, aims, and objects specified and authorized in and by this appropriation: *Provided further*, That no part of this appropriation shall be paid or used for the purpose of paying for in whole or in part the preparation or publication of any newspaper or magazine article, but this shall not prevent the giving out to all persons without discrimination, including newspaper and magazine writers and publishers, of any facts or official information of value to the public. - Agricultural act, March 4, 1909."

It is a fundamental and statutory fact under the method of appropriating made by Congress to support the government services, that all appropriations must be used for the specific purpose for which made and not otherwise.

It is true that in a service like the Forest Service, as to the details of the use of the appropriations made for its support, a considerable discretion is left to the head of the department, but such discretion is a legal discretion and can not extend to purposes not fairly within the meaning of the language of the appropriation and not fairly included therein.

You have cited me to no statute, nor have I been able, in the short time at my command, to find any law which, by fair interpretation, is broad enough in its scope to authorize you to use the appropriation, *supra*, to pay the salaries or compensation of forest rangers while in attendance at colleges or their traveling expenses while going from their stations to said colleges and return therefrom. These employees of the Government are legally entitled to the salaries agreed to be paid to them upon performing the service for which they were employed, and to be reimbursed for their traveling expenses when traveling on public business under proper orders.

Unless there is something in the law to the contrary, it is presumed that the officers and employees of the Government when appointed and employed have the necessary education to perform the duties for which they were appointed or employed.

The law in some instances—I have in mind the diplomatic service—makes some exception to this rule, and provides for certain instructions to certain officers and student interpreters at the government expense.

The language of the appropriation for this service negatives the idea that the Government will pay for the education of these rangers at the government expense when it limits the purchase of law books for the service to \$500 for the current year. It is true the college course they take is a short one, but if you are authorized to give them a short college course you are equally authorized to give them a long one. The question of the time of the college course is one of administration and discretion if you are authorized by law to give them a college course.

The question presented, however, is not a question of administration, but one of power. There is nothing, as before stated, in the appropriation, *supra*, or in the law that I have been able to find which, in my judgment, lodges with you the power to send these rangers to college at the government expense or authorizes you to use the appropriation in question to pay their salaries while away at college, which is only another way of expressing the same thought.

I therefore decide that you are not authorized, on the above statement of facts, to pay the salaries of these forest rangers for time consumed by them while in attendance at colleges or their travel expenses going from their stations to said colleges or in returning therefrom.

Respectfully,

R. J. TRACEWELL,
Comptroller.

Mr. PINCHOT. Now, Mr. Vertrees, before you pass away from that, I would like to read over again a part of what you have read.

Mr. VERTREES. Well, if you prefer, suppose you read the whole document to the committee.

Mr. PINCHOT. I will read the whole document.

The CHAIRMAN. And what document is that you propose—the comptroller's decision?

Mr. PINCHOT. It is hardly necessary to read it all. I merely wish to reread the part that Mr. Vertrees read.

Mr. MADISON. Go ahead, but do not read any more than is absolutely necessary to make your point.

Mr. PINCHOT. The Secretary says [reading]:

This arrangement comes to my attention for the first time and I share in the doubts entertained by Mr. McCabe as to the legality of the payment from a government appropriation of salary for time spent by employees of the service as students at an institution of learning, no matter what may be the character of the subjects they study. If this plan can be legally carried on by the Forest Service, I see no reason why discrimination should be made against men employed in other branches of scientific work in the Department of Agriculture, which would involve the payment of salaries from appropriations made for the Department of Agriculture for meat inspectors at veterinary schools, chemists at chemical schools, pomologists, horticulturists, agronomists, and others at the various agricultural colleges and the attendance of Weather Bureau employees at meteorological lectures at the various colleges having such courses.

I merely want to call your attention to the character of letter containing a statement of that sort submitted to the comptroller, in order to get an opinion as to a course of action which no one has denied was eminently in the interest of the service if it could be legally done.

Mr. VERTREES. Does not Mr. Wilson say there that it has just come to his attention?

Mr. PINCHOT. He does.

Mr. DENBY. As a matter of interest, is not the logical deduction that the Secretary makes—

Mr. PINCHOT. I beg your pardon.

Mr. DENBY. I say is not the logical deduction that the Secretary makes that if it is legal to do this for the Forest Service, it is legal to do it in all the other branches of service?

Mr. PINCHOT. In answer to that question I would have to know the terms in which these appropriations are made for these different bureaus. We have in the Forest Service a wording of the appropriation which unquestionably makes this legal, to my mind.

Mr. DENBY. Have you reference to that?

Mr. PINCHOT. It is, in substance, that the Secretary of Agriculture is authorized to make whatever expenditures that are necessary for the care, administration, and protection, I think it is, of the national forest. It is a very broad power.

Mr. VERTREES. Did not the comptroller have the very law to which you refer before him, and does he not consider them in this opinion, Mr. Pinchot?

Mr. PINCHOT. He makes no reference to that part of the law, so far as I am aware.

Mr. GRAHAM. When was the plan of sending students to agricultural schools first adopted?

Mr. PINCHOT. My impression is that it was a year and a half ago. If I may turn around and ask Mr. Price I believe he can tell me.

The CHAIRMAN. All right.

Mr. PINCHOT (after consulting with Mr. Price). Mr. Price informs me—he corrects my recollection—that the plan, as passed upon by the comptroller, was only adopted within the year, while certain students had gone to one or two agricultural colleges before at their own expense.

Mr. GRAHAM. Was there any secrecy about it, or was there any reason why the Secretary did not know of it?

Mr. PINCHOT. None whatever. The matter was, for example, fully known to the auditor, Captain Jacob, during his trip in the West, and to Commissioner McIlhenny, of the Civil Service Commission.

Mr. DENBY. Had there been any reference to it in any annual or other report?

Mr. PINCHOT. I think not, although I am not absolutely sure about that.

Mr. PEPPER. May I ask whether the Secretary of Agriculture had ever passed upon the arrangement by which the men were sent to camp, for instruction under similar conditions?

Mr. PINCHOT. Yes; that was fully approved in the regulations adopted by the Secretary.

Mr. JAMES. Did you pay their expenses while they were there?

Mr. PINCHOT. Yes, sir.

Mr. JAMES. And did their salary go on?

Mr. PINCHOT. Yes, sir; their salary went on.

Mr. JAMES. What was the purpose of that camp?

Mr. PINCHOT. Precisely the same as sending these men to school.

Mr. VERTREES. They were at work in the camp, were they not?

Mr. PINCHOT. Nothing but being instructed.

Mr. VERTREES. He knew of that?

Mr. PINCHOT. He knew of it.

Mr. VERTREES. But the others he knew nothing of, so far as you know.

Mr. PINCHOT. No. My recollection is that he did know of it, but as I have said, I am not sufficiently clear about it to be able to swear to it. My recollection is that I told him about it when I came back from the West.

Mr. JAMES. Were they instructing them in the camp that you speak of, where they were, with the same character of instruction that they were receiving in the colleges?

Mr. PINCHOT. Exactly, and for the same purposes.

Mr. JAMES. Were their salaries paid, and did their expenses go on?

Mr. PINCHOT. Yes, sir.

Mr. JAYNES. He held that it could be legally paid?

Mr. PINCHOT. Yes; and it was paid.

Mr. MADISON. What was the difference in the expense to the Government between the camp system and the college system?

Mr. PINCHOT. There was a considerable saving in the college system, because the colleges had their own men to teach certain subjects.

Mr. VERTREES. Did you not pay their salaries and their transportation both ways?

Mr. PINCHOT. Not of the men who did the instruction on the part of the colleges.

Mr. VERTREES. I mean the students who attended the colleges; these 200 people?

Mr. PINCHOT. Yes, sir; now, just as we did in the camps.

Mr. VERTREES. That can be done in the camp; it was the same instruction. Why not have the practical instruction in the field?

Mr. PINCHOT. Because this was a better plan.

Mr. VERTREES. That is, you thought it was a better plan?

Mr. PINCHOT. I thought it was; yes, sir. I had a fair chance to judge.

Mr. VERTREES. And you were the man to judge, and you thought you had the power to do it.

Mr. PINCHOT. I did.

Mr. VERTREES. Was this matter ever brought to the attention of the comptroller?

Mr. PINCHOT. Not that I know of.

Mr. VERTREES. Before he rendered this opinion?

Mr. PINCHOT. Not that I know of.

Mr. VERTREES. You said here that you did not think the comptroller looked into the statutes bearing on this question.

Mr. PINCHOT. I said I did not think the statement submitted to the comptroller was a clear statement of facts.

Mr. VERTREES. Did not the comptroller in his opinion, and I will read it, this section of the law; it reads as follows:

To enable the Secretary of Agriculture to experiment and to make and continue investigations and report on forestry, national forests, forest fires, and lumbering, but no part of this appropriation shall be used for any experiment or test made outside the jurisdiction of the United States; to advise the owners of woodlands as to the proper care of the same; to investigate and test American timber and timber trees and their uses, and methods for the preservative treatment of timber; to seek, through investigations and the planting of native and foreign species, suitable trees for the treeless regions; to erect necessary buildings: *Provided*, That the cost of any building erected shall not exceed \$500; to pay all expenses necessary to protect, administer, and improve the national forests; to ascertain the natural conditions upon and utilize the national forests; and the Secretary of Agriculture may, in his discretion, permit timber and other forest products cut or removed from the national forests, except the Black Hills National Forest in South Dakota, to be exported from the State, Territory, or the District of Alaska, in which said forests are respectively situated: *Provided*, That the exportation of dead and insect-infested timber only from said Black Hills National Forest shall be allowed until such time as the Forester shall certify that the ravages of the destructive insects in said forest are practically checked, but in no case after July first, nineteen hundred and ten; to transport and care for fish and game, supplied to stock the national forests or the waters therein; to employ fiscal and other agents, clerks, assistants, and other labor required in practical forestry and in the administration of national forests, in the city of Washington and elsewhere; to collate, digest, report, and illustrate the results of experiments and investigations made by the Forest Service; to purchase law books to an amount not exceeding five hundred dollars, necessary supplies, apparatus, and office fixtures, and technical books and technical journals for officers of the Forest Service stationed outside of Washington; to pay freight, express, telephone, and telegraph charges; for electric light and power, fuel, gas, ice, washing towels, and official traveling and other necessary expenses; and for rent in the city of Washington and elsewhere, three million nine hundred and eighty-six thousand dollars: *Provided*, That no part of the money herein appropriated shall be used to pay the transportation or traveling expenses of any forest officer or agent except he be traveling on business directly connected with the Forest Service and in furtherance of the works, aims, and objects specified and authorized in and by this appropriation: *Provided further*, That no part of this appropriation shall be paid or used for the purpose of paying for in whole or in part the preparation or publication of any newspaper or magazine article, but this shall not prevent the giving out to all persons, without discrimination, including newspaper and magazine writers and publishers, of any facts or official information of value to the public.—Agricultural act, March 4, 1909.

It is a fundamental and statutory fact under the method of appropriating made by Congress to support the government services that all appropriations must be used for specific purpose for which made and not otherwise.

It is true that in a service like the Forest Service, as to the details of the use of the appropriations made for its support, a considerable discretion is a legal discretion and can not extend to purposes not fairly within the meaning of the language of the appropriation and not fairly included therein."

And then he holds that this was not fairly included therein.

Mr. VERTREES. How many rangers did you have at the time?

Mr. PINCHOT. About 2,000.

Senator FLETCHER. If you could order the 200 into the colleges, is there any reason why you could not order 500, 800, or 1,000?

Mr. PINCHOT. Only that we were acting for the best good of the service. You understand, Senator, that at the time these men went they could be spared from the work in the woods with the least loss, whereas we were obliged to hold the training school in camp at the time when the weather was good enough to prevent the field work, and therefore in one case we lost very much more from the loss of service than we did in the other case.

Senator FLETCHER. You have a system of allowing vacations to employees?

Mr. PINCHOT. Yes; they can get fifteen days a year.

Senator FLETCHER. Do they utilize this time in the colleges generally; do you arrange so that part of the vacation is spent in that way?

Mr. PINCHOT. No; they generally go home. They generally use that time as a matter of practice in going out for a few days at a time; the married ones to see their families when their families are not with them, and so on.

Senator FLETCHER. Are these rangers under civil-service law?

Mr. PINCHOT. They are.

Senator FLETCHER. Are they all employed by you?

Mr. PINCHOT. They are employed by the Forest Service, and their appointments are signed by the Secretary of Agriculture.

Senator FLETCHER. Are they required to have only such examinations as the Forest Service prescribes?

Mr. PINCHOT. As the Forest Service, in cooperation with the Civil Service Commission, prescribes. Of course, the decision is with the Civil Service Commission.

Senator FLETCHER. Are they required to have any previous experience in dealing with forests or any knowledge of forestry?

Mr. PINCHOT. They are mostly, Senator, either cowboys or miners or lumbermen or mountain men of one kind or another, and very few of them have more than a general out-door man's knowledge of work outdoors. We can not get men who are trained in the particulars I have mentioned, because there is no similar work done outside the national forests anywhere.

Senator FLETCHER. Have you any employees who are simply college graduates and have no experience in the work at all?

Mr. PINCHOT. None whatever. The only men we have who come in under civil service as college graduates are the men who have taken the full course in a regular forest school, which is usually equivalent to about two years or more of post-graduate work.

Senator FLETCHER. And usually you pay those higher salaries?

Mr. PINCHOT. Yes; they come in at \$1,000 instead of \$900, as the rangers do.

Mr. PEPPER. Mr. Vertrees, I speak subject to correction. I think there is one matter of fact which Mr. Pinchot is mistaken about, but

which can easily be corrected, and that is his statement that the rangers while in attendance at these institutions receive, in addition to salary, their living expenses. I think it will be found, sir—

Mr. VERTREES. I do not think it goes that far.

Mr. PEPPER. I think their salary went on, and they get transportation to and from the college, and it was only while they were in the camps that they got their living expenses.

Mr. PINCHOT. I am very much obliged to you.

Mr. VERTREES. Does not the act under which you are operating contain this further provision [reading]:

That no part of the money herein appropriated shall be used to pay the transportation or traveling expenses of any forest officer or agent, except he be traveling on business directly connected with the Forest Service in furtherance of the work and aims specified and authorized by that appropriation.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Now, in point of fact you had the agents, you called experts, traveling all over the country, didn't you?

Mr. PINCHOT. Are you going to drop the ranger schools?

Mr. DENBY. Before you do that I want to ask you a question. How long did they stay in college?

Mr. PINCHOT. From eight to twelve weeks.

Mr. OLMSTED. As I understand it, these rangers attending college paid nothing by way of tuition?

Mr. PINCHOT. Nothing by way of tuition.

Mr. OLMSTED. Do you know what those colleges—what tuition they would charge for such a course to an outside person?

Mr. PINCHOT. I do not believe I could make a guess. Perhaps twenty-five or fifty dollars.

The CHAIRMAN. I think the agricultural colleges getting federal appropriations would have to give instruction free.

Mr. PINCHOT. Very probably.

Mr. MADISON. They all do, don't they?

Mr. PINCHOT. They gave it free anyway.

Mr. JAMES. How long did the camp schools continue when you had that system?

Mr. PINCHOT. I think a somewhat less length of time; perhaps six or eight weeks; I am not sure.

Mr. JAMES. You sent about 150 or 200 to the agricultural schools—how many would attend the camp schools?

Mr. PINCHOT. I should say 40 at a guess.

Mr. JAMES. Forty a year?

Mr. PINCHOT. At each one of the schools. We have had two or three schools.

Mr. JAMES. Well, how many would that make for a year, attending all the different camps?

Mr. PINCHOT. If we had not passed over under these other plans. we would have had to-day just as many men at the camp schools as we did have in the agricultural schools.

Mr. JAMES. Do you keep them there as long a time?

Mr. PINCHOT. We would have eventually kept them there as long a time.

Mr. JAMES. Was there any difference in the expenditures of the money necessary to teach these rangers in the camp schools and in the agricultural schools?

Mr. PINCHOT. It was somewhat less expensive in the agricultural schools.

Mr. MADISON. Per man?

Mr. PINCHOT. Per man.

Mr. JAMES. So that rather than a loss to the Government, it was a saving?

Mr. PINCHOT. Yes, sir; it was a saving.

Mr. OLMSTED. Can you tell us, if you know, the character of the questions which were asked these rangers in taking the civil-service examination?

Mr. PINCHOT. I can give you a general idea of it; I can bring an examination here itself to-morrow if you like.

Mr. OLMSTED. That will answer my question.

Mr. DENBY. How long has the system of camp schools been in force?

Mr. PINCHOT. Either one or two years.

Mr. DENBY. Long enough to have been passed on by the auditor?

Mr. PINCHOT. Yes, sir.

Mr. DENBY. Is there any special provision in the law or in the regulations authorizing camp schools?

Mr. PINCHOT. There is a specific regulation for these meetings of rangers for instruction.

Mr. DENBY. Which you designate as camp schools?

Mr. PINCHOT. Yes, sir; which a camp school is.

Mr. DENBY. Is that a regulation or is that a statute?

Mr. PINCHOT. It is a regulation.

Mr. DENBY. Based upon a statute?

Mr. PINCHOT. Based upon a statute.

Mr. DENBY. Which statute authorizes it?

Mr. PINCHOT. Which statute says that the Secretary is authorized to pay whatever money is necessary for certain purposes, and by authorizing that expenditure he recognizes it as being necessary for that purpose.

Mr. JAMES. But it did not specify that purpose?

Mr. PINCHOT. It did not specify that purpose.

Mr. DENBY. It is upon that that you base your authority to send these men to colleges, instead of to camp schools? That is, by analogy your contention, as I understand it, is that if it was lawful to establish these camp schools under the statute as they have been existing, it was also lawful to send the men to college?

Mr. PINCHOT. I can see no difference in the legal status of the two.

Mr. DENBY. There was nothing in the statute which would make you distinguish between the two systems?

Mr. PINCHOT. Nothing whatever.

Mr. DENBY. Then you did not base it upon your opinion that it was necessary, and therefore you might do it, did you?

Mr. PINCHOT. Whether I based the camp schools or the ranger meetings on a definite regulation?

Mr. DENBY. Yes.

Mr. PINCHOT. Yes; and then the extension of that to the other—

Mr. DENBY. Well, I mean in your mind you thought you had a statutory regulation for the college, as well as for a camp school?

Mr. PINCHOT. Without any question; I think so yet.

Mr. DENBY. And you did not simply say because it is necessary I will do it?

Mr. PINCHOT. Not at all. We did it because we thought it was necessary. In connection with that opinion I want to say that I have no doubt whatever that a submission of the case could easily have been prepared, if the members of the Forest Service had been consulted, and that an exact statement of the facts which would have drawn from the comptroller without any question whatever the reply that it was legal.

Mr. DENBY. That is a little aside from the question, and it is a reflection upon the intelligence of the comptroller.

Mr. PINCHOT. No; not at all.

Mr. DENBY. And he had the entire bodies of the laws and regulations before him?

Mr. PINCHOT. It is a question, Mr. Denby, not as to what the comptroller did, but as to whether the case as submitted to the comptroller was accurate and complete. The comptroller took particular care to say that on the statement of facts thus submitted I decide so and so.

Mr. JAMES. Not on the law as it was?

Mr. PINCHOT. No.

Mr. DENBY. Would the comptroller accept an erroneous statement and base a conclusion upon an erroneous statement, and not on the law, as it was, and if he did, would he not be open to serious criticism?

Mr. PINCHOT. The comptroller could not know what the facts were.

Mr. OLSTED. It strikes me these questions are hardly fair to ask the witness.

Mr. DENBY. We are trying to get the witness's opinion.

Mr. VERTREES. You never had the comptroller's opinion on any of these questions?

Mr. PINCHOT. No, sir; not on any of these questions.

Mr. VERTREES. And, so far as you know, neither the camp question nor the school question was presented to him until it was presented by Mr. McCabe?

Mr. PINCHOT. By Secretary Wilson.

Mr. VERTREES. By Secretary Wilson on January 12 or 13?

Mr. PINCHOT. January 13.

Mr. VERTREES. And that school question, so far as you can remember, was never presented to Secretary Wilson?

Mr. PINCHOT. No. My impression is that, as I have already said twice, I did tell him about it in October, but I am not sure; I am not sure enough to swear to it.

Mr. VERTREES. You are not sure enough to state that you did!

Mr. PINCHOT. No, sir.

Mr. VERTREES. There was a great deal of discussion and a great many speeches made by your experts all over the country, was there not, in the discussion of the forestry question, almost everywhere?

Mr. PINCHOT. Whether the forest service people made speeches, do you mean?

Mr. VERTREES. Yes.

Mr. PINCHOT. Yes, sir; constantly.

Mr. VERTREES. That was a feature you laid great stress on?

Mr. PINCHOT. That was a very necessary part of our work.

Mr. VERTREES. And you understood that was authorized?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Isn't it true that you carried that to a most extraordinary limit?

Mr. PINCHOT. No, sir.

Mr. VERTREES. To what extent did you keep a publicity bureau?

Mr. PINCHOT. We had in the forest service men who were specifically required to get together and give out information to the newspapers, and the total expenditure for that purpose ran in different years, as I recall, from six to ten thousand dollars.

Mr. VERTREES. I find in a list that has been furnished me of the items, things that you caused to be presented and paid as proper charges along these lines, and among other things this: Mr. Bristow Adams, or Adams Bristow, which is it?

Mr. PINCHOT. Bristow Adams.

Mr. VERTREES. Mr. Bristow Adams, expert. I find an item here which reads as follows:

November 6 to 13, Washington to Chicago and return, to meet the members of Women's Clubs with regard to the extension of forest education, \$77.31.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. You were working in that line?

Mr. PINCHOT. I might add that I am informed, Mr. Vertrees, that it has long been the custom of the Department of Agriculture to send men to meet occasional bodies; to send people at the expense of the department to give long courses of lectures at the colleges.

Mr. VERTREES. Another item that I find here is that you sent Mr. Fred G. Plummer, geographer of the Forest Service, November, 1908, Washington to New York and Binghamton, N. Y., and return to Washington, to lecture at the state Y. M. C. A. on forestry.

Mr. PINCHOT. Yes, sir. I suppose this is right. I have no recollection.

Mr. VERTREES. I say that has been given to me.

The CHAIRMAN. How much was that?

Mr. VERTREES. And I find among other things that you sent Mr. G. S. Arnold from Washington to New Haven and return, investigation of the Yale Law School of the fitness of applicants for positions of experts in the office of law?

The CHAIRMAN. How much was that?

Mr. VERTREES. That was only \$26 for that. Address on structural timbers before the Connecticut Society of Civil Engineers, I find an item there of \$26.05. Mr. Betz did that; that is correct, is it, or something like that?

Mr. PINCHOT. I do not recall; I presume so.

Mr. VERTREES. And then you sent Mr. Carter out to lecture at the Yale forestry school. There is an item for that; that item was \$56.37.

The CHAIRMAN. That was a reversal of the operation of instruction.

Mr. VERTREES. And then you sent Mr. Danna out to deliver a series of lectures at the Harvard forestry school, \$40.20. And then you sent Mr. Don Carlos Ellis from Washington to Portland, Oreg., to give educational talks at the Seattle Exposition.

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. \$152.85. And then, again, you send Mr. William Hall from Washington to New York City and return to lecture on forest products at Yale forestry school. Now, I find that Mr. Jacob

Sidney—Mr. Sidney R. Jacobs, miscellaneous division, office of Auditor for State and other Departments, Washington to Chicago, Ill., Denver, Colo., and points in Idaho and Montana; Spokane, Wash., and return; inspection and instruction in temporary special disbursing agent's accounts, \$252.85.

There are a number of other items. I call your attention to a lecture at the Y. M. C. A. on forestry, \$30.70. I find that you sent Mr. Shaw to Toronto, Canada, to deliver an address on forest taxation at the International Tax Congress in Toronto.

The CHAIRMAN. How much was that?

Mr. VERTREES. \$53.80. And then I find another item of Sherfese, chief, office of wood preservation, Washington to Chicago; Ames, Iowa; Kansas City, Mo.; Denver, Leavenworth, Glenwood, and other points in Colorado; Wallace, Idaho; Missoula, Mont.; Deadwood, S. Dak.; Ogden, Utah; Portland, Oreg.; Minneapolis, Minn., and return, general supervision of woods, preservation projects, and conditions, \$445.44.

And November 29 to December 27 you sent him to some other places under general supervision of wood preservation projects. Then, I find here that Mr. Thomas R. Shipp, under date of August 19, 1908, was sent from Washington to New York and return on business of collecting newspaper clippings.

Mr. PINCHOT. At least I presume so; I have no definite knowledge.

Mr. VERTREES. You carried on that sort of business. What did you have down there that you called the morgue?

Mr. PINCHOT. As a matter of fact I do not know.

Mr. VERTREES. Did you ever hear of it?

Mr. PINCHOT. Not that I recall. What was the morgue?

Mr. VERTREES. I do not know.

Mr. JAMES. That was a place for dead politicians, was it not?

Mr. GRAHAM. He did not need that until after September.

Mr. VERTREES. Was it not used in connection with publications, pro and con?

Mr. PINCHOT. I do not know.

Mr. VERTREES. In other words, the publications that were favorable and applauded the bureau went to one place and were heard of later, but those that criticised it went to the morgue.

Mr. PINCHOT. I never heard of that.

Mr. VERTREES. Never did?

Mr. PINCHOT. Not to my recollection.

Mr. VERTREES. And I have here another item of February, 1909, lecture at Yale school on forestry law, and so on. I have called your attention to those items that the committee might see the character of expenditures that went on while you were managing that department.

Mr. PINCHOT. Assuming that those are correct.

Mr. VERTREES. Do not they strike you as being items that are familiar?

Mr. PINCHOT. You have not read one of them, if what I think about it is right, that was not an absolute and thoroughly justifiable expenditure.

Mr. VERTREES. I would just like to hear you on that.

Mr. PINCHOT. That is all I have to say at present.

Mr. VERTREES. No; I would just like to know how you justify them.

Mr. PINCHOT. It is necessary for me to know the details in each case.

Mr. VERTREES. I thought you knew them; you spoke so positively.

Mr. PINCHOT. For example, sending men from Washington to various forest schools to give lectures before the forest students, who afterwards would become presumably members of the Forest Service, was a thoroughly justifiable expenditure. There is no question about that.

Mr. VERTREES. Let me interrupt you. You sent these people out to educate these fellows, and then when they came back you sent them to other colleges.

Mr. PINCHOT. Sent out whom to other colleges?

Mr. VERTREES. These advanced students, as a reward of merit.

Mr. PINCHOT. I find it somewhat difficult to explain the Forest Service to a gentleman who is as unfamiliar with its operations as you seem to be. The men of whom I am speaking are not the rangers of whom you have been speaking a little while ago, but the trained officers of the Forest Service, who are experts in their line.

Mr. VERTREES. What was the idea of sending them to Yale—to instruct the Yale people in forestry? What was the special idea?

Mr. PINCHOT. The idea was this: The Forest Service gets the majority of its trained men, or at least half, and I think the majority, from the Yale Forest School. Nearly all of them afterwards came into the government service, and it is very essential and these men, before they come into the service, should be thoroughly acquainted with our methods of work.

Mr. DENBY. They did not become rangers, did they?

Mr. PINCHOT. Oh, no; they did not become rangers; they became trained men in the higher grades.

Mr. VERTREES. Well, the newspaper clipping item—what do you say about that?

Mr. PINCHOT. I do not recall—

Mr. GRAHAM. Is it a source of expense, and if so, how much? How much was charged up against the morgue?

Mr. VERTREES. That was a small item. I understood him to say the whole aggregate was six or seven thousand dollars.

Mr. PINCHOT. For the instruction work through newspapers. You must recall that the Forest Service had as its principal duty, or one of its principal duties, the education of this country to the necessity for forest reservation, not merely as a national forest, but throughout the country everywhere. One of our big jobs was to create a public sentiment which would support the forest work and lead to its increased spread, and the saving of the forests generally. And we got from the newspaper work—which cost, as I have said, something below \$10,000 a year or in that neighborhood—we got in one year, when we got our material carried in, about 300,000,000 copies of newspapers. Now, 300,000,000 copies of newspapers are a good many newspapers.

The CHAIRMAN. Did you furnish them the printed matter?

Mr. PINCHOT. We furnished them absolutely nothing but the typewritten information, or the printed information.

The CHAIRMAN. Did you not write the articles for them?

Mr. PINCHOT. We furnished the material for them to write their own articles if they chose. We gave them information on forest subjects, and the very large spread of the idea of forest conservation in this country is due, in very considerable part, to this policy of giving the newspapers information on these matters. It was one of the most useful and best, and most worth-while parts of our work.

Mr. VERTREES. How did you interpret this provision of the act under which you are operating:

Provided, That no part of this appropriation shall be paid or used for the purpose of paying for in whole or in part the preparation or publication of any newspaper or magazine article, but this shall not prevent the giving out to all persons without discrimination, including newspaper and magazine writers and publishers, of any facts or official information of value to the public.

Mr. PINCHOT. We were doubtful as to just exactly what that meant, so we prepared a form of submission for the signature of the Secretary of Agriculture, and asked the Attorney-General just what it meant, and I can give you his opinion.

Mr. VERTREES. Have you his opinion in writing?

Mr. PINCHOT. I can give you his opinion.

Mr. VERTREES. It was in writing?

Mr. PINCHOT. It was in writing.

Mr. VERTREES. I will ask you to file a copy; but for the present just state what it was.

Mr. PINCHOT. What we did was to state what we were doing, and asked him if it was justified under the act, and he replied that it was.

Mr. VERTREES. You just stated what you were doing; stated those things, and the character of the publication?

Mr. PINCHOT. The character of the work——

Mr. VERTREES. The character of the speech making?

Mr. PINCHOT. The speech making is different.

Mr. VERTREES. That comes under a different proposition. I am going to pass to another thing.

Mr. DENBY. Just one question before we get away from that. These items were all passed by the auditor, were they not?

Mr. PINCHOT. Yes; and have been for years.

Mr. VERTREES. They were passed just like those other items there, as appropriations, without any special statement, were they not?

Mr. PINCHOT. I do not understand you.

Mr. VERTREES. They were not brought to the attention of the comptroller in any way?

Mr. PINCHOT. What we were doing?

Mr. VERTREES. Yes; his opinion was not asked on any of those questions?

Mr. PINCHOT. I do not recall whether it was ever asked on those particular questions of publicity or not. Of course it would be utterly impossible for a department to do business if it had to submit every item of its work to the comptroller continually for a new decision. The comptroller could not keep up with the game.

Mr. JAMES. How long has this been going on?

Mr. PINCHOT. To which do you refer?

Mr. JAMES. I mean sending men out to make speeches?

Mr. PINCHOT. Ever since I took charge of the work in 1898.

Mr. JAMES. Ever since 1898, and there was no objection ever made

Mr. PINCHOT. None whatever.

Mr. JAMES. Was it known to the Secretary of Agriculture?

Mr. PINCHOT. It was thoroughly known to him and that is thoroughly approved. As I said, the Secretary not only sends other men in other bureaus out to make speeches, but my understanding and information is that it has long been his policy to go so far as to send men to give regular courses in colleges.

Mr. JAMES. Was the President at that time familiar with your work in that line?

Mr. PINCHOT. Thoroughly—

Mr. JAMES. It met his approval?

Mr. PINCHOT. Thoroughly. Not only that—

Mr. MADISON. You went in under President McKinley?

Mr. PINCHOT. Yes.

Mr. MADISON. Did he know about that character of work?

Mr. PINCHOT. I do not know how thoroughly he was advised of what we were doing. During President McKinley's administration the Forest Bureau was a very small division and President Roosevelt was very well aware of it, and this particular item of our policy, as you recall, has been the subject of repeated attacks especially in the Senate and has been thrashed over and over again. So that it was perfectly known.

Mr. MADISON. Secretary Wilson sends out the men in the office of the public roads to make speeches in road building, does he not?

Mr. PINCHOT. That is my information.

Mr. MADISON. And to make general educational addresses on subjects of that kind?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. He sends out his men from the Bureau of Plant Industry to farmers' institutions to make addresses to farmers' institutions scattered all over the country, does he not?

Mr. PINCHOT. So I understand.

Mr. MADISON. Are we to understand that this character of work that you were following in this bureau was similar to the character of work that was being followed in the others?

Mr. PINCHOT. It has been an established policy in the Department of Agriculture since I have known anything about it.

Mr. JAMES. Is there anything of that kind carried on in the Reclamation Service?

Mr. PINCHOT. Yes, sir.

Mr. JAMES. Is it being carried on now?

Mr. PINCHOT. Yes, sir; that is my information.

Mr. JAMES. What department, if any, of the Government is it that sends out men to build model roads?

Mr. PINCHOT. The Department of Agriculture.

Mr. JAMES. Is that under the Agriculture Department?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. Is it not a fact that the fundamental statute under which the Department of Agriculture operates contains a specific provision for the diffusion of information on the subject of the operations of the department and its different agencies?

Mr. PINCHOT. It says that the Department of Agriculture, taken in the broadest sense of that word; so if there is any policy in the department which seems to be well established, it is this which Mr. Vertrees has been asking.

Mr. VERTREES. It is the application of the same theory which justified experimenting upon various lines and then publishing the result in bulletins and sending them out free, not only as to the printing but also as to the mailing to the people.

Mr. PINCHOT. Absolutely. I have never been able to see that the Forest Service would be justified in gathering information if it did not give that information out to the people.

Mr. VERTREES. In your statement that you made before you were sworn you stated:

I shall show you that this letter of November 4 was submitted by the President to Mr. Ballinger, and that as part of his reply he laid before the President a statement concerning the Cunningham coal cases, which statement is shown by undisputed documentary evidence to be absolutely false.

Mr. PINCHOT. In three respects.

Mr. VERTREES (reading):

In three essential particulars. It will then appear that Mr. Ballinger willfully deceived the President and was disloyal to him.

That appears on page 1143 of the record.

On page 1265 this appears in your evidence:

Mr. PEPPER. What are the three? Will you read again the statement in the letter?

Mr. PINCHOT. The best summary of the three is found at the bottom of page 2 of Judge Ronald's letter, where he says:

"I, without having seen the record, have no hesitancy in asserting that the report of Special Agent Jones was not with reference to the Cunningham claims; that no order of Judge Ballinger's while commissioner clear listing the Cunningham claims was held up as a result of a protest from Mr. Glavis; and that Judge Ballinger at no time urged before the House Committee on Public Lands legislation in the interest of any claimant which he had any reason to suspect as being fraudulent."

You made that statement and adopted that. Now, what interest or claim did Judge Ballinger urge before the House Committee on Public Lands; that is, legislation to procure which he had reason to suspect as being fraudulent?

Mr. PEPPER. I think my copy of that went to the stenographer.

Mr. JAMES. It is in the record.

Mr. PEPPER. Top of page 1246 is the reference to the Cunningham claims; 1246 is with reference to the claims, and then on the lower half of 1248 is the other.

Mr. PINCHOT. Mr. Vertrees, you will find on page 1246 of the record a statement of Mr. Ballinger which could only refer to the Cunningham claims. You will find on page 1248 this, a little below the middle of the page:

In my estimation it has not been the intention of the people in the field nor in Alaska to put them in hostility to the laws, but they have been in a position where they could not by virtue of the circumstances accommodate themselves to the laws, and with this last provision they could transmute their present entries into the form suggested by this bill and those new entries would be treated as primary entries. In other words, it would be an abandonment of the old conditions which have made a great deal of difficulty in the matter of the disposition of the land in many instances.

In other words, it would be an abandonment of the old condition, which would have made a great deal of difficulty in the matter of the disposition of the land in many instances. As I understand it, under the old law the claimants could have only gotten possession of their claims through perjury.

Mr. VERTREES. That is the charge, is it? That is, that he pre-dicated on that?

Mr. PINCHOT. You asked me, I think, whether there was any place that showed that Judge Ballinger advocated the passage to patent of claims which he had reason to believe were fraudulent.

Mr. VERTREES. Yes.

Mr. PINCHOT. I replied by quoting his own language.

Mr. VERTREES. And you quoted from that proceeding.

Mr. PINCHOT. Yes; his hearing before the House Committee on Public Lands March 3.

Mr. VERTREES. Your statement is that he was endeavoring to deceive the President in three essential particulars?

Mr. PINCHOT. It was. Those were not the only three, but the three in this particular case.

Mr. VERTREES. I understand; but I am talking of the three in this particular case. Now, the way in which he attempted to deceive the President, that is what we are on now.

Mr. PINCHOT. By laying before the President the statement as to his relation to the Cunningham matter, which was false in three particulars.

Mr. VERTREES. Well, now, that statement was the letter that you spoke of of November 4.

Mr. PINCHOT. My letter was November 4.

Mr. VERTREES. His was the 15th; is it the 15th?

Mr. PINCHOT. The letter I have reference to is the letter which Judge Ronald inclosed in the President's letter.

Mr. VERTREES. If I understand you, your assertion is this, that in a letter which Mr. Ballinger wrote to the President November 15, he deceived the President in three essential particulars.

Mr. PINCHOT. He laid before him a statement which was false in three essential particulars.

Mr. VERTREES. These statements, as I understood you, were contained in a letter of Judge Ronald to Judge Ballinger?

Mr. PINCHOT. They were.

Mr. VERTREES. And Mr. Ballinger, in writing to the President on the 15th of November, sent along with his letter, amongst other letters, a copy of the letter of Judge Ronald to him.

Mr. PINCHOT. He did.

Mr. VERTREES. That letter of Judge Ronald's contained certain statements?

Mr. PINCHOT. It did.

Mr. McCALL. Was not that letter to Lyman Abbott and not to Judge Ballinger?

Mr. VERTREES. It was sent to Lyman Abbott and was not published, and he sent a copy to Judge Ballinger and Judge Ballinger sent a copy of that to the President, as I understand. Now, is it not true that on September 3 the President had submitted a full statement, not only his statement but the statement of Schwartz, the chief of the detective service—

Senator FLINT. Mr. Schwartz will probably object to that.

Mr. VERTREES. And the statement of Mr. Dennett—field agents they call them—but detective service, I think, and the statement of Mr. Dennett, the commissioner, in which statements he had set forth to the President all that had happened with reference to the Cunningham matter.

Mr. PEPPER. You stated that the President had submitted. You mean that Mr. Ballinger had submitted.

Mr. VERTREES. Yes; that Mr. Ballinger had submitted. Had he not assumed in that statement accompanied by these other statements to state everything in regard to the Cunningham matters?

Mr. PINCHOT. I believe he has stated; I do not know. He made statements on that subject.

Mr. VERTREES. He had made a statement in that, as to the clear listing, as to his relation to the claims, had he not?

Mr. PINCHOT. He had.

Mr. VERTREES. Now, going in the order as you have stated them, I will take up the matter of clear listing. Is it not true that Mr. Ballinger in that communication had stated that he had ordered or authorized the clear listing of the Cunningham claims, and that it was recalled on the telegram of Mr. Glavis, and did he not set forth the telegram itself in terms?

Mr. PINCHOT. He had contradicted himself completely in the record in one case, showing definitely that the stopping of the clear listing was made upon the intervention of Mr. Glavis, and in another case denying it in the same record.

Mr. VERTREES. That is not the question I am on just now. I am on the question, which is the question I put to you, if he did not state that the clear listing had been made and then stated that the clear listing had been recalled on the telegram of Mr. Glavis, and set forth the telegram?

Mr. PEPPER. Look at page 76, Senate Document No. 248, and you will find the answer, what he said—"the record in this matter as shown in Mr. Schwartz's answer."

Mr. PINCHOT (reading):

The record in this matter, as shown in Mr. Schwartz's answer, does not bear out the assumptions of Glavis: (1) That action was contrary to the recommendation of Jones and Glavis; (2) that issuance of patents was prevented by Agent Glavis protesting by wire and report January 22, 1908—

Mr. PEPPER. That is Mr. Ballinger's statement.

Mr. PINCHOT. Page 76.

Mr. PEPPER. That is not what you want, but it is his statement.

Mr. VERTREES. Now, state whether this in any way reflects upon—

Mr. PEPPER. What I refer to is this:

The record in this matter, as shown in Mr. Schwartz's answer, does not bear out the assumptions of Glavis: (1) That action was contrary to the recommendations of Jones and Glavis; (2) that issuance of patents was prevented by Agent Glavis protesting by wire and report January 22, 1908, inasmuch as Glavis's wire was called for by the department by virtue of letter of Assistant Commissioner Fred Dennett, dated January 7, 1908, initialed by H. H. Schwartz, inclosing list of Cunningham group of coal entries, and to which Glavis, on January 22, wired answer to the commissioner from Portland, Oreg., as follows:

"Coal entries mentioned in your letter of 1907 should not be clear listed. Letter follows."

And my reason for venturing to interrupt you was that that was precisely the misrepresentation that was rammed home in the Ronald letter and exhibited by the President.

Mr. VERTREES. Now, we will see if any of that is accurate, Mr. Pinchot. The part which has been read to you states that it is incorrect in the statement that "Issuance of patents was prevented by Mr. Glavis protesting by wire and report January 22, 1908, inasmuch as Glavis's wire was called for by the department by virtue of letter of Assistant Commissioner Fred Dennett, dated January 7, 1908, initialed by H. H. Schwartz, inclosing list of Cunningham group of

coal entries, and to which Glavis, on January 22, wired answer to the commissioner from Portland, Oreg., as follows:

Coal entries mentioned in your letter of 1907 should not be clear listed. Letter follows.

Now, is not the thought clearly put there by the Secretary that the contention that there was a patenting that was arrested by virtue of a protest put in by these men did not come in that affirmative form that was meant to be claimed at all, but this telegram, which telegram is set out there, called for by a special letter sent to him, stating that these lands had been clear listed?

Mr. PINCHOT. The inference—I judge from what you say, Mr. Vertrees—the inference which you desire to have made is that the letter of January 7, 1908, contained a question, whereas, as a matter of fact, it was nothing whatever but a notification of action already taken.

Mr. VERTREES. Have you read this Senate document?

Mr. JAMES. Is that the letter to the department from Mr. Glavis?

Mr. BRANDEIS. It is on page 46 of the list of orders.

Mr. PINCHOT. With your permission I will read that letter.

Mr. VERTREES. Yes, sir.

Mr. PINCHOT. Here it is, January 7:

LETTER OF ASSISTANT COMMISSIONER DENNETT TO GLAVIS, JANUARY 7, 1908.

463 P" JTM 39231

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 7, 1908.

Mr. LOUIS R. GLAVIS,
Chief of Field Division, Portland, Oregon.

SIR: I inclose herewith for your information a list of Alaska coal entries which, upon report of Special Agent Love, have been clear listed in Division "P" and referred to Division "N" for action.

Very respectfully,

(Signed) FRED DENNETT,
Assistant Commissioner.

Mr. VERTREES. Yes, sir. Now read on page 67 part of the same reply of Mr. Ballinger to which you refer—page 67 of the Senate document.

Mr. PINCHOT. It is fair from the letter which I have read, it seems to me, that that is not a request for a telegram.

Mr. VERTREES. Wait a moment. Go to page 67. Does not Mr. Ballinger say to the President:

Some time during the winter of 1907 ex-Governor Miles C. Moore, of Walla Walla, called upon me as Commissioner of the General Land Office, and inquired into the status of the Cunningham group of coal claims in Alaska. Their status was reported to him, through me, by Chief of Field Division H. H. Schwartz. Special Agent Love's favorable report was at the time brought to my attention, and, basing my action thereon, this group of claims was clear listed for patenting. The plats not having been returned from the land office at Juneau, at the request of Governor Moore, I advised the officers at Juneau by wire to forward them. In the meantime, Agent Glavis was communicated with by the office as to these claims, as he was supposed to have some knowledge of their condition, and a wire was received from Glavis in Portland as follows:

"PORTLAND, OREG., 22.

"TO COMMISSIONER GENERAL LAND OFFICE,
"Washington, D. C.

"Coal entries mentioned in your letter January 7 should not be clear listed; letter follow.

"GLAVIS, Chief."

I thereupon immediately called upon Secretary Garfield and advised him of Glavis's communication, as Governor Moore had, as I understood, previously conferred with Secretary Garfield respecting this matter. I suggested to Mr. Garfield the advisability of holding up the patents, in which he concurred.

Thereupon I directed Mr. Heltman, Chief of the Mineral Division of the General Land Office, to recall these entries (he having theretofore transmitted them to the Patent Division to have the patents issued), and directed him to hold them until further orders and awaiting full investigation. Later, on inquiry by Governor Moore or Governor McGraw (I don't remember which) I stated that further investigation was necessary.

You have read the evidence in this case we have taken.

Mr. PINCHOT. To some extent, yes.

Mr. VERTREES. When you made your statement here to the committee did you not know that it appeared from the letter of Governor Moore, or rather from the letter of Cunningham based upon the letter of Governor Moore, that Governor Moore had stated that at the time these claims were clear listed that Mr. Ballinger had stated to him, "Now this will be clear listed unless Mr. Special Agent Glavis, who is now investigating, reports adversely, which is not expected."

Mr. PINCHOT. I do not recall that clearly. I would like to see the letter.

Mr. PEPPER. So would I.

Mr. VERTREES. You will find the letter of January 22, which Cunningham had written, I think, in the register at Juneau.

Mr. PEPPER. There is a letter of January 15, but I do not think it can be the one that you refer to.

Mr. VERTREES. It contains that clause and also when you made that statement—

Mr. PINCHOT. One moment, Mr. Vertrees, let us see about this.

Mr. VERTREES. Look at the list, page 47, or the record, 610, or 719, either one, or 113.

Mr. JAMES. What number of the list?

Mr. VERTREES. Forty-seven.

Senator FLINT. Are those pages you are reading the number of times that letter has been placed in evidence?

Mr. VERTREES. Yes, sir; that is, a portion of it.

Senator FLINT. My recollection is that that letter has been placed in the record 20 times.

Mr. JAMES. Just nineteen.

Mr. VERTREES. It has been placed in the record four times. He writes:

I am glad to know that you sent your office copies on to Washington, for I am advised by Governor Moore that he is assured by the department chief that patents will be issued forthwith on arrival of plats unless some reason for withholding same is advanced by Special Field Agent Glavis, which is not expected.

Mr. PINCHOT. Is there anything whatever in that letter that indicates what date that refers to, whether before or after the clear listing?

Mr. VERTREES. It is January 18, 1908. This letter is written from Seattle, and presumably it was some time before.

Mr. PINCHOT. I should like to know when he was advised by ex-Governor Moore?

Mr. VERTREES. It seems to have been recently. Was it not January 15, as this clear listing took place January 26 or 28.

Mr. PINCHOT. I see nothing here which indicates any contradiction whatever.

Mr. VERTREES. The point I want to bring before you is when you made that statement did you not know the fact had been brought out at the very time it was done—to Mr. Moore, referred to by Mr. Ballinger in his communication to the President—the statement had been made that they would be clear listed unless Glavis, who was in the field, should advise to the contrary, which was not expected?

Mr. PINCHOT. I do not even know it now. There is nothing in this to show that this took place at a time which had any influence on the matter at all.

Mr. VERTREES. And did you not know at that time that instructions were given to Glavis of the fact of clear listing when you made the statement here?

Mr. PINCHOT. Yes, sir; I knew the instructions had been issued, that the chief should be notified of the fact of clear listing.

Mr. VERTREES. Did you not know of the fact that he was notified?

Mr. PINCHOT. I knew of the fact that he was notified.

Mr. VERTREES. And did you not know that Mr. Glavis himself had testified before you took the stand that he understood it to be in the line of his duty when that was received, if he had anything, to send it in against those claims?

Mr. PINCHOT. I presume he would have thought that—I do not remember his testimony in detail, but I certainly think this, Mr. Vertrees, that there was nothing whatever in the notifications sent by Mr. Dennett to Mr. Glavis that indicated in any way whatever that the question was still up as to whether these claims should be patented or not. That letter, it seems to me perfectly clearly, was merely a notification to Glavis of action taken, disposed of, and settled.

Mr. VERTREES. Did you not know in point of fact that the clear listing was recalled, and the President had so reported that it had been recalled nearly a month before this Ronald letter had been sent in?

Mr. PINCHOT. As to that I have to say that inasmuch as Mr. Ballinger seems to have made it stick in his letter of November 4, he evidently thought he could make it stick again in his letter of November 15.

Mr. VERTREES. What do you mean by having it "stick?"

Mr. PINCHOT. I mean he made the statement on page 76, which was obviously not true, and has not backed that statement up afterwards by the Ronald statement.

Mr. VERTREES. What was the statement that was not true on page 76?

Mr. PINCHOT. That the record, as shown in Mr. Schwartz's answer, does bear out the assumption of Glavis that issuance of patents was prevented by Agent Glavis's protest by wire.

Mr. VERTREES. Is it not clear there what Mr. Ballinger is saying on the motion of a protest, a volunteered protest of Mr. Glavis, without knowledge or information of any part or any action on the part of Mr. Ballinger or his people, and that that is the idea that he is conveying there?

Mr. PINCHOT. I do not understand your question.

Mr. VERTREES. To state it otherwise, does he not state there that this is not true for the reason that Mr. Glavis's wire was called for by the department by virtue of the letter of Assistant Commissioner Fred Dennett?

Mr. PINCHOT. He does, and that is obviously not true.

Mr. VERTREES. And then does he not set out the telegram?

Mr. PINCHOT. He does.

Mr. VERTREES. That this man sent in?

Mr. PINCHOT. Yes; but he does not set out the letter of Dennett's.

Mr. VERTREES. You say it is obviously not true. Did he not require the very thing that—

Mr. PINCHOT. It is obviously not true, the inference which he sets up, inasmuch as Glavis's wire was called for by the department, by virtue of a letter by Fred Dennett, acting commissioner. It says:

The records in this matter, as shown in Mr. Schwartz's answer, does not bear out the assumptions of Glavis.

Mr. VERTREES. Do you not know that Mr. Glavis himself has stated that he understood from his attitude that he did not call for the report, if he did have any?

Mr. PEPPER. That is not a correct statement.

Mr. VERTREES. I think the most important thing is that Mr. Ballinger himself says that these two telegrams, one dated February 27, 1908, from Walla Walla:

R. A. Ballinger, General Land Office, Washington, D. C. Kindly advise what delayed issuance coal patents. My friends think other claimants obstructing, hoping for advantage. Miles C. Moore.

Washington, D. C., February 28, 1908. Miles C. Moore, Walla Walla, Wash. Temporary delay caused by report of field agent. Ballinger, Commissioner.

Mr. VERTREES. What is the reason that that is not absolutely correct?

Mr. PEPPER. You are asking what Mr. Ballinger meant to convey to the President?

Mr. VERTREES. Has not Mr. Ballinger said if anything came in it was not expected?

Mr. PINCHOT. No, sir.

Mr. VERTREES. Does not the letter say so?

Mr. BRANDEIS. No.

Mr. PEPPER. No, sir.

Senator FLINT. I submit, Mr. Chairman, that we ought to have some testimony here.

Mr. VERTREES. I am ready to proceed; Mr. Chairman, but every time I ask a question these gentlemen take it up.

Mr. PEPPER. Mr. Chairman, I reserve the offer because I can not offer it while Mr. Vertrees is examining it, and have the telegram that Mr. Pinchot is cross-examined on.

Mr. VERTREES. The telegram expressly stated that it was held up temporarily by reason of the report. Now, we will go to the question of Mr. Ballinger's position before the committee. I will first call your attention in that connection to Mr. Ballinger's report as commissioner, of June 30, 1907, and I desire in this connection to introduce before this committee this much of the report of Mr. Ballinger's as Commissioner of the General Land Office to the Secretary of the Interior for the fiscal year ending June 30, 1907. I want to read that and turn it in. Are you familiar with that?

Mr. PINCHOT. I have not seen it for a long time.

Mr. VERTREES. You have seen it and you will recognize it when I read it to you.

Mr. PINCHOT. I am not sure; I have not seen it for a long time.

Mr. VERTREES. See if you do remember it:

The present coal-land law should be supplanted by an act fully meeting existing as well as future conditions. The object to be attained in any such legislation is to conserve the coal deposits as a public utility and to prevent monopoly and extortion in their distribution. This may be accomplished either through a leasing system, by which the title would remain in the Government, under proper regulation and supervision by the Secretary of the Interior, or through the sale of the deposits with restrictions on their mining and use which would control the minimum output and conserve the deposits as a public utility, under similar regulations. As regards the future disposition of coal lands, I am impressed with the belief that the most advantageous method will be found in a measure authorizing the sale of the coal deposits in the lands, subject to forfeiture for failure to exercise the rights granted, under such reasonable regulations as may be imposed.

Do you recall that that was the position?

Mr. PINCHOT. I do not recall it, but it is very easy to look it over.

Mr. VERTREES. My attention is called to one clause that I omitted:

In case of failure of the grantees to open and operate the coal deposits under reasonable limitations and to maintain an output reasonably suited to the deposits, and in case of combination as to price or limitation of output, title should be forfeited by proceedings in court for that purpose. Government mine supervision would be necessary to enforce the conditions and limitations under the grant.

Mr. PINCHOT. That is the last place on page 18 of the record.

Mr. VERTREES. Yes, sir.

Mr. PINCHOT. Yes.

Mr. VERTREES. That is correct?

Mr. PINCHOT. I judge so. It is a report of the Secretary of the Interior.

Mr. VERTREES. The bill which Mr. Ballinger appeared before the committee and spoke with reference to is the bill known as the Cale bill. I here show you that bill and ask you if that is a copy of the bill [exhibiting bill]?

Mr. PINCHOT. I suppose it is.

Mr. VERTREES. Now, pass it back to me, please. It reads, "H. R. 18198. In the House of Representatives. February 27, 1908."

Mr. Chairman, I desire to offer that Cale bill that was before the committee.

The CHAIRMAN. It will be received and admitted in evidence.

(The bill is as follows:)

Mr. VERTREES (reading):

Mr. Cale introduced the following bill, which was referred to the Committee on the Public Lands and ordered to be printed.

I call attention especially to the second section in the bill:

[H. R. 18198, Sixtieth Congress, first session.]

A BILL To provide for the sale of coal deposits in the district of Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all vacant surveyed or unsurveyed public lands in the district of Alaska containing workable deposits of coal are hereby classified as coal lands; and such lands and the coal deposits therein shall be disposed of only in the manner prescribed by this act.

SEC. 2. That every citizen of the United States above the age of twenty-one years, who has not acquired title to coal deposits or coal lands from the United States, or any association of persons severally so qualified, may purchase the coal deposits contained in or under any vacant contiguous public lands classified as coal under this act, or in or

under any other contiguous lands entered under any of the public-land laws after the passage of this act and upon which such deposits are discovered prior to the completion of such entry, which do not exceed two thousand five hundred and sixty acres in the aggregate, at a price of ten dollars per acre, in such manner and under such rules and regulations as the Secretary of the Interior may prescribe, but no purchase of coal deposits under this act shall operate to give the purchaser, his heirs or assigns, any right, title, or interest in or to the surface of any lands containing said deposits or to any minerals other than coal, except the right to such use and occupancy of such surface as may be necessary to the mining and sale of the coal purchased by them, which shall be included in such purchase and fully defined.

SEC. 3. That all unpatented lands of the United States in the district of Alaska shall be subject to exploration by persons qualified to purchase under this act for the discovery of coal, but no title shall pass under any patent hereafter issued under any of the public-land laws other than the coal-land law to any workable coal deposits known to exist at or prior to the date of such patent. Any person qualified to purchase under this act shall, upon the payment of the sum of twenty-five cents per acre, and the filing of an exploration application covering not to exceed two thousand five hundred and sixty acres of public land and upon the expenditure of not less than twenty-five cents per acre in the exploration and development of any coal deposits in such land, have a preference right to purchase such deposits at any time within one year from the date of the filing of said application: *Provided*, That a further extension of such preference right shall be given such applicant upon the payment of fifty cents per acre for each acre covered by said application for an additional period of one year.

SEC. 4. That the title to any coal deposit purchased under the provisions of this act shall be forfeited to the United States by proceedings instituted in the courts for that purpose if the purchaser or purchasers thereof, or his or their heirs or assigns, shall fail to mine and offer for sale quarterly such a reasonable amount of coal as shall be prescribed by the Secretary of the Interior, or if he or they shall tacitly or otherwise enter into any contract, combination in the form of a trust, or conspiracy in restraint of trade in coal: *Provided*, That it shall be the duty of the Secretary of the Interior, upon sufficient cause shown, to grant a suspension of mining operations for such period as he may prescribe.

SEC. 5. That all vacant and unreserved public lands classified as coal lands under the provisions of this act may be disposed of under the general provisions of the public land laws of the United States, but no right, title, or interest in any coal deposits contained in or under any such lands shall be claimed or acquired under or through any entry, or under any patent issued under such an entry, if such coal deposits are discovered prior to the issuance of such patent, and any person who owns any coal deposit purchased under this act, either before or after the lands containing them have been entered under the public land laws, shall have the right to the use of so much of the surface of such lands as may be necessary to the mining and sale of the coal therein.

SEC. 6. That duly qualified persons or associations of persons desiring to purchase coal deposits in the unsurveyed lands in the district of Alaska may file with the register and receiver of the land district in which the lands are situated a notice describing the lands in which such deposits are contained, referring to such natural objects or permanent monuments as will readily identify the same, and within two years from the date of filing such notice file in such local land office their application to purchase the coal deposits contained in said lands, accompanied by a duly certified copy of a plat of survey and field notes made by a United States deputy surveyor or a United States mineral surveyor, whereupon the coal deposits in said lands may be disposed of to such claimant in accordance with the provisions of this act: *Provided*, That all such claims must be located and surveyed as nearly as possible in square or rectangular tracts not exceeding two thousand five hundred and sixty acres of land, with north and south boundary lines run according to the true meridian, and that permanent monuments shall be established at all corners of said claims, so that the boundaries thereof may be readily ascertained.

SEC. 7. That the Secretary of the Interior is hereby authorized, upon application of any person, association, or corporation making a location as herein provided, upon a showing that conditions demand the mining and marketing of a supply of coal for domestic consumption and not for foreign export, to permit such a quantity of coal to be mined and marketed, under such rules and regulations as he may prescribe, as shall in his judgment be necessary to supply existing or immediate prospective needs prior to the date of final entry and payment for such coal lands.

SEC. 8. That none of the provisions of this act except those contained in section seven hereof shall apply to or govern the making of entry of coal lands in the district of Alaska embraced in any location made in good faith prior to November

twelfth, nineteen hundred and six, or in accordance with the circular of instructions issued by the Secretary of the Interior May sixteenth, nineteen hundred and seven; and all persons, their heirs or assigns, now claiming or asserting any right under such locations may consolidate their said claims or locations by including in a single claim or location not to exceed two thousand five hundred and sixty acres of contiguous lands, and for this purpose such persons, their heirs, or assigns, may form associations or corporations or may transfer their said claims to other persons, associations, or corporations, who may perfect entry of and acquire title to said lands in accordance with the other provisions of law under which said locations were originally made and upon payment of ten dollars per acre for the land included therein.

Sec. 9. That all acts or parts of acts in conflict herewith are hereby repealed.

Mr. VERTREES. Mr. Ballinger appeared, as you have stated, before that committee and made an argument, did he not, and it is that to which you refer?

Mr. PINCHOT. He did.

Mr. VERTREES. I wish to call your attention to parts of that argument to which you have not referred.

The CHAIRMAN. Mr. Vertrees, it is now 5 o'clock, and I think we will adjourn until to-morrow.

In accordance with agreement of counsel the record will show the following papers, comprising a part of the vouchers and other papers on file in the Office of Indian Affairs in the Interior Department pertaining to reimbursement to the Forest Service for work performed in connection with timber on Indian reservations.

(The papers are as follows:)

[Department of the Interior, Office of Indian Affairs, Washington. Claim No. 191841.]

FOREST SERVICE.

For services rendered from December 1, 1908, to March 31, 1909, on all the Indian reservations where cooperative timber work has been conducted, principally those in the Lake States.

To auditor, May 18, 1909:

Indian moneys, proceeds of labor, Chippewas of Lake Superior, Bad River.....	\$154.50
Indian moneys, proceeds of labor, Coeur D'Alenes.....	10.00
Indian moneys, proceeds of labor, Flathead.....	10.00
Indian moneys, proceeds of labor, Klamath.....	10.00
Indian moneys, proceeds of labor, La Pointe, Lac Courte Oreille.....	31.00
Indian moneys, proceeds of labor, Chippewas of Lake Superior, Lac du Flambeau.....	61.00
Indian moneys, proceeds of labor, Leech Lake.....	25.00
Indian moneys, proceeds of labor, Menominee.....	185.16
Indian moneys, proceeds of labor, Nez Perce.....	20.00
Indian moneys, proceeds of labor, Pine Ridge.....	10.00
Indian moneys, proceeds of labor, Red Lake.....	50.00
Indian moneys, proceeds of labor, San Carlos.....	5.00
Indian moneys, proceeds of labor, Siletz.....	5.00
Indian moneys, proceeds of labor, Spokane.....	5.00
Indian moneys, proceeds of labor, White Earth.....	10.00
Indian moneys, proceeds of labor, Yakima.....	10.00
Care and protection of Indian timber lands, 1909 and 1910.....	159.43

761.09

Settled May 17, 1909.

T. W., Examiner.

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,

Washington, May 10, 1909.

OAZ]

The COMMISSIONER OF INDIAN AFFAIRS.

Department of the Interior, Washington, D. C.

SIR: In further reply to letter of May 6 from Mr. Dortch:

I have the honor to return statement of account against the Indian Office covering payments made by the Forest Service amounting to \$792.09 for services rendered beginning December 1, 1908, and ending March 31, 1909, on various Indian reservations. The statement is accompanied by a supplement setting forth in detail the items chargeable to each reservation on which cooperative work has been conducted. I hope that the account will now be in proper form for settlement.

Very respectfully,

G. G. ANDERSON, Acting Forester.

Settled May 17, 1909.

A-3,

G. E. S.

Supplement to statement of April 24, 1909, covering payments made by the Forest Service for services rendered beginning December 1, 1908, and ending March 31, 1909, on various Indian reservations, amounting to a total of \$792.09.

One-half of the salary of A. B. Patterson, Harry Irion, and L. Gartrell from December 1, 1908, to March 2, 1909, inclusive, amounting to \$507.24, is chargeable against the funds belonging to the various reservations, as follows:

Bad River.....	\$100.00
Coeur d'Alene.....	10.00
Flathead.....	10.00
Fond du Lac.....	10.00
Grand Portage.....	12.00
Klamath.....	10.00
Lac Courte Oreille.....	20.00
Lac du Flambeau.....	45.00
Leech Lake.....	25.00
Menominee.....	150.24
Nez Perce.....	20.00
Pine Ridge.....	10.00
Red Lake.....	50.00
San Carlos.....	5.00
Siletz.....	5.00
Spokane.....	5.00
White Earth.....	10.00
Yakima.....	10.00
	<hr/>
	507.24

One-half of the salary of Mr. Patterson, Mr. Irion, and Miss Gartrell for the period from March 3 to 31, inclusive, amounting to \$159.43, is chargeable against the \$10,000 appropriation made immediately available for timber work on the Indian reservations by the act of March 3, 1909 (Public, No. 316).

The expense account of Mr. A. B. Patterson for the period December 8 to 31, inclusive, amounting to \$94.87, is chargeable to the various reservations, as follows:

Bad River.....	\$46.00
Lac Courte Oreille.....	11.00
Lac du Flambeau.....	16.00
L'Anse.....	9.00
Menominee.....	12.87
	<hr/>
Total.....	94.87

Mr. Patterson's transportation on December 11 and 30 is chargeable, as follows:

Bad River.....	\$8.50
Menominee.....	22.05
	<hr/>
Total.....	30.55

[38886. Office of Indian Affairs. Received May 12, 1909]

RECAPITULATION.

	Salaries of A. B. Patterson, H. Irion, and L. E. Gartrell.		Expenses of A. B. Patterson, Mar. 3-31, 1908	Transportation A. B. Patterson, Dec. 11, 12, 30, 1908.	Total.
	Dec. 1, 1908-Mar. 31, 1909.	Mar. 3-31, 1909.			
Bad River.....	\$109.00		\$46.00	\$8.50	\$154.50
Coeur d'Alene.....	10.00				10.00
Flathead.....	10.00				10.00
Fond du Lac.....	10.00				10.00
Grand Portage.....	12.00				12.00
Klamath.....	10.00				10.00
Lac Courte Oreille.....	20.00		11.00		31.00
Lac du Flambeau.....	45.00		16.00		61.00
L'Anse.....			9.00		9.00
Leech Lake.....	25.00				25.00
Menominee.....	150.24		12.87	22.05	185.16
Nes Perce.....	20.00				20.00
Pine Ridge.....	10.00				10.00
Red Lake.....	50.00				50.00
San Carlos.....	5.00				5.00
Siletz.....	5.00				5.00
Spokane.....	5.00				5.00
White Earth.....	10.00				10.00
Yakima.....	10.00				10.00
Fund appropriated, March 3, 1909.....		\$159.43			159.43
Total.....	507.24	159.43	94.87	30.55	792.09

* Care and protection of Indian timber lands, 9 and 10.

May 12, 1909. I certify that the above statement is correct.

Settled May 17, 1910.

(Signed)

G. G. ANDERSON, Acting Forester.

G. E. S.

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, April 24, 1909.

AZO)

Hon. FRANCIS E. LEWIS,

Commissioner of Indian Affairs,

Department of the Interior, Washington, D. C.

SIR: I have the honor to transmit herewith statement of account against the Indian Office covering payments made by the Forest Service on account of work on various Indian reservations.

The expenses of Mr. A. B. Patterson during the period December 8 to 31 were incurred on account of the Bad River, Lac Courte Oreille, Lac du Flambeau, L'Anse, and Menominee reservations, and one-half of the salaries of Mr. Patterson, Mr. Irion, and Miss Gartrell, for the period December 1 to March 31, is chargeable to all of the Indian reservations where cooperative timberwork has been conducted, principally to those in the Lake States. These charges can not well be definitely divided between the various reservations.

If the statement is found correct, please have the necessary steps taken to have the amount, \$792.09, transferred from such Indian appropriations as may be available, to the credit of general expenses, Forest Service, 1909.

Very respectfully, yours,

WM. L. HALL, Acting Forester.

Bad River, Lac Court Oreille, Lac du Flambeau, L'Anse, Menominee.

[illegible][illegible]

I certify that the above bill is correct and that payment therefor has not been received.

~~CONFIDENTIAL~~

FOR THE RECORD

Menominee log fund, Menominee Reservation.....	\$1,231.79
Case and protection of Indian timber lands, 1919:	

Secretary's authority dated December 22, 1909, to auditor with this claim. Crediting "General expenses, Forest Service, 1910."

Settled February 23, 1910.

INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY. 1419

[90207—Office of Indian Affairs. Received November 11, 1909.]

Statement of payments made by the United States Forest Service for services rendered during the period beginning July 1, 1909, and ending September 30, 1909, in connection with the cooperative timber work on the Menominee Indian Reservation:

Payee.	Period.	Amount.	
Salaries:			
E. A. Braniff.....	July 1-31	\$187.50	
Do.....	Aug. 1-31	187.50	
Do.....	Sept. 1-15	93.75	
D. G. Belt.....	July 1-31	116.66	
Do.....	Aug. 1-31	116.67	
Do.....	Sept. 1-15	58.33	
G. T. Backus.....	Aug. 20-31	12.50	
Do.....	Sept. 1-30	75.00	
E. D. Clark.....	Sept. 3-30	77.78	
			\$925.00
Expenses:			
E. A. Braniff.....	July 1-31	149.47	
Do.....	Aug. 1-31	23.10	
Do.....	Sept. 1-15	11.40	
D. G. Belt.....	July 1-31	27.09	
Do.....	Aug. 1-31	4.96	
Do.....	Sept. 1-15		
G. T. Backus.....	Aug. 20-31	34.25	
Do.....	Sept. 1-30	7.19	
E. D. Clark.....	Sept. 3-30	45.64	
Total.....		1,231.78	306.00

Settled January 27, 1910.

NOVEMBER 6, 1909.

I certify that the above bill is correct and just and that payment therefor has not been received.

G. G. ANDERSON,
Acting Forester.

Credit—"General expenses, Forest Service, 1910."
WRF—HB—WIHFC.

1420 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

[90207—Office of Indian Affairs. Received November 11, 1909.]

Statement of payments made by the United States Forest Service for services rendered during the quarter beginning July 1, 1909, and ending September 30, 1909, in connection with the cooperative timber work on various Indian reservations:

Payee.	Period.	Amount.	
Salaries:			
La Pointe—			
Mark Burns.....	July 1-31	\$141.66	
Do.....	Aug. 1-31	141.67	
			\$283.33
Red Lake—			
Patrick Kennedy.....	July 1-31	150.00	
Do.....	Aug. 1-31	150.00	
Do.....	Sept. 1-30	180.00	
J. A. Howarth.....	July 1-31	105.33	
Do.....	Aug. 1-31	105.33	
Do.....	Sept. 1-30	105.34	
			775.00
Office in Washington, care and protection Indian Territory lands, 1909-10—			
A. E. Patterson (one-half).....	July 1-31	75.00	
H. Irion (one-half).....	July 1-31	58.88	
L. Gartrell (one-half).....	July 1-31	40.00	
			173.88
Expenses:			
La Pointe—			
Mark Burns.....	July 1-31	18.41	
Do.....	Aug. 1-31	27.99	
			46.40
Red Lake—			
Patrick Kennedy.....	July 1-31	35.50	
Do.....	Aug. 1-31	69.10	
Do.....	Sept. 1-30	42.63	
J. A. Howarth.....	July 1-31	129.03	
Do.....	Aug. 1-31	147.40	
Do.....	Sept. 1-30	26.00	
			449.66
Total.....			1,727.72

NOVEMBER 6, 1909.

I certify that the above bill is correct and just and that payment therefor has not been received.

G. G. ANDERSON,
Acting Forester.

Settled January 27, 1910.
Credit—"General expenses, Forest Service, 1910."
WRF—HB—WI—H. F. C.

[Land uses—90207-1909—E B H—Account against office.]

FEBRUARY 8, 1910.

The honorable the SECRETARY OF THE INTERIOR.

SIR: On December 22, 1909, the department approved a letter of the office submitting two statements of accounts for payments made by the Forest Service in connection with cooperative timber work on Indian reservations.

Through oversight the letter provided that the expenditures made on account of the Menominee Indian Reservation, \$1,231.78, should be paid out of the fund "Care and protection of Indian timber lands, 1909-10." This amount should be paid out of the Menominee log fund, and it is requested that authority be granted for the payment of the item out of that fund.

Very respectfully,

R. G. VALENTINE,
Commissioner.

GO-31-7467.
Approved February 9, 1910.

FRANK PIERCE,
First Assistant Secretary.

Original to auditor, with claim 198419.
Settled February 23, 1910.

[1-24632—Land uses—90207-1909—E B H—Account against office.]

DECEMBER 21, 1909.

The honorable the SECRETARY OF THE INTERIOR.

SIR: There is inclosed a letter of November 6, 1909, from G. G. Anderson, Acting Forester, and submitting two statements of account against this office covering payments made by the Forest Service in connection with the cooperative timber work on the Menominee Indian Reservation, amounting to \$1,231.78, and on various other Indian reservations amounting to \$1,727.72.

It will be observed that some of these items involve expenditures up to September 30. It was not practicable to bring to an end the relations of the Forest Service to the Indian timber question immediately on receipt by the Agricultural Department of departmental letter of July 20, giving notice of the termination of the so-called cooperative agreement, because it was necessary to have certain employees of the Forest Service transferred to this office, and although the Forest Service surrendered all jurisdiction, it was compelled for some time to pay the salaries of persons employed on Indian forests who were carried on its rolls, due to delays in making the transfers. This was not true as to A. B. Patterson, an assistant forester, for one-half of whose pay a claim is made to July 31 for \$75, and Harry Irion, a clerk, for whom claim is made for one-half his salary, covering the same period, in the amount of \$58.33. However, it is fair to say that at least a part of the time of each of these men was taken up in connection with Indian forest work.

It is believed that the claim of the Forest Service is just, and I recommend that it be ordered paid out of the fund "Care and protection of Indian timber lands, 1909-10."

Very respectfully,

R. G. V.,
Commissioner.

CAS-10-6489.

Approved: December 22, 1909.

FRANK PIERCE,
First Assistant Secretary.

Original to auditor with claim 198419.

[Office of Indian Affairs. Received November 11, 1909—File 90207.]

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, November 6, 1909.

The COMMISSIONER OF INDIAN AFFAIRS,
Department of the Interior.

SIR: I have the honor to transmit herewith two statements of account against the Indian Office covering payments made by the Forest Service on account of cooperative timber work on the Menominee Indian Reservation amounting to \$1,231.78, and on various other Indian reservations amounting to \$1,727.72.

If the statements are found correct please have the necessary steps taken to have the amount of \$1,231.78 transferred from the Menominee funds, and the amount of \$1,727.72 from the fund provided by the act of March 3, 1909 (Public No. 316), to the credit of the appropriation, "General expenses, Forest Service, 1910."

Very respectfully,

G. G. ANDERSON,
Acting Forester.

1422 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

[Office of Indian Affairs, received November 11, 1909.]

Statement of payments made by the United States Forest Service for services rendered during the quarter beginning July 1, 1909, and ending September 30, 1909, in connection with the cooperative timber work on various Indian reservations:

Payee.	Period.	Amount.
Salaries:		
Mark Burns.....	July 1-31	\$141.66
Do.....	Aug. 1-31	141.67
Patrick Kennedy.....	July 1-31	150.00
Do.....	Aug. 1-31	150.00
Do.....	Sept. 1-30	150.00
J. A. Howarth.....	July 1-31	108.33
Do.....	Aug. 1-31	108.33
Do.....	Sept. 1-30	108.34
A. B. Patterson (one-half).....	July 1-31	75.00
H. Irion (one-half).....	do.	58.33
L. Gartzell (one-half).....	do.	40.00
Expenses:		
Mark Burns.....	do.	18.41
Do.....	Aug. 1-31	27.99
Patrick Kennedy.....	July 1-31	35.59
Do.....	Aug. 1-31	69.10
Do.....	Sept. 1-30	42.63
J. A. Howarth.....	July 1-31	129.03
Do.....	Aug. 1-31	147.40
Do.....	Sept. 1-30	26.00
Total.....		1,727.72

NOVEMBER 6, 1909.

I certify that the above bill is correct and just, and that payment therefor has not been received.

G. G. ANDERSON,
Acting Forester.

Credit—"General expenses, Forest Service, 1910."
H. F. C.

90207]

Statement of payments made by the United States Forest Service for services rendered during the period beginning July 1, 1909, and ending September 30, 1909, in connection with the cooperative timber work on the Menominee Indian Reservation:

Payee.	Period.	Amount.
Salaries:		
E. A. Braniff.....	July 1-31	\$187.50
Do.....	Aug. 1-31	187.50
Do.....	Sept. 1-15	93.75
D. G. Belt.....	July 1-31	116.66
Do.....	Aug. 1-31	116.66
Do.....	Sept. 1-15	58.33
G. T. Backus.....	Aug. 26-31	12.50
Do.....	Sept. 1-30	75.00
E. D. Clark.....	Sept. 3-30	77.78
Expenses:		
E. A. Braniff.....	July 1-31	148.47
Do.....	Aug. 1-31	26.10
Do.....	Sept. 1-15	11.40
D. G. Belt.....	July 1-31	27.09
Do.....	Aug. 1-31	4.98
Do.....	Sept. 1-15	
G. T. Backus.....	Aug. 26-31	31.25
Do.....	Sept. 1-30	7.19
E. D. Clark.....	Sept. 3-30	45.64
Total.....		1,231.73

NOVEMBER 6, 1909.

I certify that the above bill is correct and just and that payment therefor has not been received.

G. G. ANDERSON,
Acting Forester.

"General expenses, Forest Service, 1910."

INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY. 1428

[Office of Indian Affairs, received July 19, 1909—File 56629.]

[St—Cooperation Indian office. Federal protection.]

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, July 17, 1909.

The COMMISSIONER OF INDIAN AFFAIRS,
Department of the Interior, Washington, D. C.

SIR: I respectfully request that you set aside the sum of \$450, to cover the cost of necessary work by the Forest Service on the Flathead Reservation, Mont., in connection with the inspection and checking of the sales now under way, and the organization and direction of the protective force on the reservation in accordance with the procedure outlined in the acting commissioner's letter of June 15 to the Forester, and Chief Clerk Hauke's letter of June 16 to Mr. F. C. Morgan. Of the amount specified, \$300 will be needed for the salary and \$150 for the expenses of the men engaged on this work.

A detailed inspection of the sales to the O'Brien Lumber Company and to Donlan & Russell, on this reservation, is necessary to determine the compliance of the purchasers with the provisions of their contracts, with reference especially to the utilization of merchantable material and disposal of debris. Following this inspection, definite recommendations will be submitted as to what further work should be required under these contracts before the sales are closed.

I request also that \$140 be set aside for the cost of the examination of the timber cutting which has been done on the Standing Rock Reservation, S. Dak., and the preparation of a plan for the future protection and administration of the timber on that reservation, in accordance with the request contained in Chief Clerk Hauke's letter of June 11.

Very respectfully,

WM. T. COX,
Acting Forester.

SF

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, OFFICE OF THE FORESTER,
Washington, February 19, 1910.

The COMMISSIONER OF INDIAN AFFAIRS,
Department of the Interior.

SIR: Your letter of February 16 (Finance, TW- Cl. 198419, 90207/09), is received. As a result of an informal inquiry at your office by Mr. Irion, I understand that it will not be necessary to supply the information requested. The statement accompanying your letter was left with the Division of Accounts.

Very respectfully,

E. E. CARTER, Acting Forester.

DEPARTMENT OF THE INTERIOR,
FIRST ASSISTANT SECRETARY'S OFFICE,
September 16, 1909.

Mr. CLEMENTS:

Please read the President's public letter, printed to-day, about the cooperative agreement. He refers to the comptroller's decision.

If the cooperative agreement was illegal under the comptroller's decision, how is it possible to pay the Forest Service the \$450 which it requires for work done prior to July 17?

PIERCE.

Mr. PIERCE:

A matter for careful handling for fear of further complications.

CLEMENTS.

1424 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

[Land—Uses. 56629-1909, 56796-1909. E. B. H. Cost of work by Forest Service.]

The SECRETARY OF AGRICULTURE.

SIR: The department has before it a letter of July 17, 1909, written by the Forest Service to the Commissioner of Indian Affairs, asking that there be set aside the sum of \$450 to cover the cost of work done by that service on the Flathead Reservation, Mont., in connection with inspection and checking of sales then underway.

It is the understanding of this department that the Forest Service suspended action on all work of this character on the receipt of departmental letter of July 17, concerning the discontinuance of the cooperative arrangement between the Forest Service and the Indian Office regarding timber operations on Indian reservations.

While this department will continue to solicit your good offices in connection with forest matters on Indian reservations, it might be best in this case for you to submit a claim for the expenses that were incurred up to the time you took action on the notice from this department concerning the cooperative agreement.

If you will file a claim in the usual manner, it will be taken up for prompt disposal.

Very respectfully,

First Assistant Secretary.

Res. -18, 4017.]

[Finance. TW. Cl. 198419. 90207/1909. Returning statement for completion.]

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 16, 1910.

The FORESTER, Washington, D. C.

SIR: There was transmitted to this office in your letter of November 6, 1909, a statement of payments made by the United States Forest Service for work done during the quarter ending September 30, 1909, in connection with the cooperative timber work on "various Indian reservations" amounting to \$1,727.72, with the request that if the account was found to be correct steps be taken to have the amount transferred to the credit of the appropriation "General expenses, Forest Service, 1910."

As the inclosed statement does not show the various reservations involved or the amounts comprised in the \$1,727.72, chargeable to the various agencies, you are requested to supply the omissions in order that the proper charges may be made against the several agencies.

Please return the inclosed statement.

Very respectfully,

(Signed) F. H. ABBOTT,
Acting Commissioner.

Wx-14.

[Department of the Interior, Office of Indian Affairs, Washington. Claim No. 196181.]

Forest Service:

For reimbursement of expenses incurred from December 1, 1908, to March 2, 1909, \$237.43, and from March 3, 1909, to May 31, 1909, \$187.05, in connection with work on the Rosebud Reservation.

Indian moneys, proceeds of labor, Rosebud Indians, \$424.48. Crediting: "General expenses, Forest Service, 1909," as requested by letter of transmittal of F. S.

Authorized by acting commissioner December 17, 1909, and original to auditor with claim.

R. W., Examiner.

Settled January 4, 1910.

This is part of cl. 192795, the voucher being returned to Forest Service for segregation in letter of August 26, 1909, and was returned by F. S. as a new claim and so put up. Wms.

Cl. 192795 canceled to the extent of the amount above settled for.

INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY. 1425

Statement of payments made by the United States Forest Service for services rendered and supplies furnished during the period beginning December 1, 1908, and ending March 2, 1909, on account of the Rosebud Indian Reservation.

Louis Knowles, salary in part, December 1, 1908-March 2, 1909.....	\$40. 00
Robert Emery, salary, December 1, 1908-March 2, 1909.....	155. 00
Louis Knowles, expenses, December 1, 1908-March 2, 1909.....	37. 93
Pioneer Times Publishing Company, expenses, December 1, 1908-March 2, 1909.....	4. 50
Total.....	237. 43

OCTOBER 7, 1909.

I certify that the above bill is correct and just, and that payment therefor has not been received.

CHAS. S. CHAPMAN, *Assistant Forester.*

Credit: General expenses, Forest Service, 1909 (district 2).
Settled January 4, 1910.
F. C. T.

Statement of payments made by the United States Forest Service for services rendered and supplies furnished during the period beginning March 3, 1909, and ending May 31, 1909, on account of the Rosebud Indian Reservation.

Louis Knowles, salary in part, March 3, 1909-May 31, 1909.....	\$12. 50
Robert Emery, salary in part, March 3, 1909-May 31, 1909.....	105. 00
Louis Knowles, expenses, March 3, 1909-May 31, 1909.....	29. 55
B. J. Barker, expenses, March 3, 1909-May 31, 1909.....	40. 00
Total.....	187. 05

OCTOBER 7, 1909.

I certify that the above bill is correct and just, and that payment therefor has not been received.

CHAS. S. CHAPMAN, *Assistant Forester.*

Settled January 4, 1910.
Credit: General expenses, Forest Service, 1909 (district 2).
F. C. T.

OAZ.

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, October 9, 1909.

The COMMISSIONER OF INDIAN AFFAIRS,
Department of the Interior, Washington, D. C.

SIR: I have the honor to transmit herewith statements of accounts against the Indian Office for payments made by the Forest Service on account of work on the Rosebud Indian Reservation.

If found correct, please have the necessary steps taken to have the amounts (\$237.43 and \$187.05) transferred from the proper Indian appropriation to the credit of the appropriation "General expenses, Forest Service, 1909."

Very respectfully,

C. S. CHAPMAN, *Acting Forester.*

Get authority to pay this claim from "Indian Moneys, Pro. [of Labor, Rosebud Indians."

1426 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

[Education—Purchase. Cl. 196181. H R D Department of the Interior, Office of Indian Affairs, Washington. 2-3483.]

Authority is hereby granted for the settlement of an indebtedness of \$424.48, incurred during the third quarter, 1909, as evidenced by the following-described vouchers, which are returned for file with your account:

For services rendered and supplies furnished by the United States Forest Service on account of the Rosebud Indian Reservation as follows:

From December 2, 1908, to March 2, 1909:	
Louis Knowles, salary in part.....	\$40.00
Robert Emery, salary in part.....	155.00
Louis Knowles, expenses.....	37.93
Pioneer Times Publishing Company.....	4.50
From March 3, 1909, to May 31, 1909:	
Louis Knowles, salary in part.....	12.50
Robert Emery, salary in part.....	105.00
Louis Knowles, expenses.....	29.55
B. J. Barker, expenses.....	40.00
Total.....	424.48

(In accordance with the claim inclosed.)

2

To Acting Forester, United States Forest Service, Department of Agriculture, Washington, D. C., December 17, 1909.

[Copy—To be filed with proper voucher in office copy of memorandum account.]

Fund to be used in making payment: "Indian moneys, proceeds of labor, Rosebud Indians," \$424.48.

[Education—Purchase. Cl. 196181. H R D. Department of the Interior, Office of Indian Affairs, Washington. 2-3483.]

Authority is hereby granted for the settlement of an indebtedness of \$424.48, incurred during the third quarter, 1909, as evidenced by the following-described vouchers, which are returned for file with your account:

For services rendered and supplies furnished by the United States Forest Service on account of the Rosebud Indian Reservation as follows:

From December 2, 1908, to March 2, 1909:	
Louis Knowles, salary in part.....	\$40.00
Robert Emery, salary in part.....	155.00
Louis Knowles, expenses.....	37.93
Pioneer Times Publishing Company.....	4.50
From March 3, 1909, to May 31, 1909:	
Louis Knowles, salary in part.....	12.50
Robert Emery, salary in part.....	105.00
Louis Knowles, expenses.....	29.55
B. J. Barker, expenses.....	40.00
Total.....	424.48

(In accordance with the claim inclosed.)

2

To Acting Forester United States Forest Service, Department of Agriculture, Washington, D. C., December 17, 1909.

[Copy.—To be filed with proper voucher in office copy of memorandum account.]

Fund to be used in making payment: "Indian moneys, proceeds of labor, Rosebud Indians," \$424.48.

INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY. 1427

[Education—Purchase. Cl. 196181. H R D. Department of the Interior, Office of Indian Affairs, Washington, 3-3483.]

[This sheet is to be detached and retained by disbursing officer.]

Authority is hereby granted for the settlement of an indebtedness of \$424.48, incurred during the third quarter, 1909, as evidenced the following-described vouchers, which are returned for file with your account:

For services rendered and supplies furnished by the U. S. Forest Service on account of the Rosebud Indian Reservation, as follows:

From December 2, 1908, to March 2, 1909:

Louis Knowles, salary in part.....	\$40. 00
Robert Emery, salary in part.....	155. 00
Louis Knowles, expenses.....	37. 93
Pioneer Times Pub. Co.....	4. 50

From March 3, 1909, to May 31, 1909:

Louis Knowles, salary in part.....	12. 50
Robert Emery, salary in part.....	105. 00
Louis Knowles, expenses.....	29. 55
B. J. Barker, expenses.....	40. 00

Total	424. 48
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(In accordance with the claim inclosed.)

3

To Acting Forester, United States Forest Service, Department of Agriculture, Washington, D. C., December 17, 1909.

[Copy.—To be filed by the disbursing officer with proper voucher in his copy of memorandum account.]

Fund to be used in making payment:

"Indian moneys, proceeds of labor, Rosebud Indians," \$424.48.

Statement of payments made by the Forest Service during the period beginning April 1, 1908, and ending May 31, 1908, on account of work on the Menominee Indian Reservation, Wis., in accordance with agreement of January 22, 1908, between the Secretary of Agriculture and the Secretary of the Interior.

Payee.	Period.	Voucher No.	Amount.
Salaries:			
	1908.		
E. A. Braniff.....	Apr. 1-30	20624	\$150. 00
James A. Howarth.....	do.....	20624	91. 66
A. K. Chittenden (4).....	do.....	20624	100. 00
T. L. Day.....	Apr. 25-30	20815	25. 00
Harry Irion.....	Apr. 1-30	20877	100. 00
W. E. LaFountain.....	do.....	20624	150. 00
Mark Burns.....	Apr. 20-30	20624	45. 83
W. S. Uhler.....	Apr. 22-30	20624	37. 50
E. E. Carter.....	Apr. 1-15	20818	91. 67
Reimbursement of expenses:			
E. A. Braniff.....	Apr. 1-30	21656	123. 25
James A. Howarth.....	do.....	21353	50. 72
T. L. Day.....	Apr. 25-30	21467	7. 45
W. E. LaFountain.....	Apr. 1-30	22502	50. 49
Mark Burns.....	Apr. 20-30	21549	20. 86
W. S. Uhler.....	Apr. 22-30	21284	21. 35
E. E. Carter.....	Apr. 1-15	21349	42. 79
Transportation:			
Denver and Rio Grande R. R. Co.—transportation T. L. Day from Durango to Denver, Colo.....	Apr. 25	22933	19. 60
Chicago, Rock Island and Pacific R. R. Co.—transportation T. L. Day from Denver, Colo., to Green Bay, Wis.....	Apr. 27	22920	24. 50
Chesapeake and Ohio Ry. Co.—transportation E. E. Carter from Washington, D. C., to Green Bay, Wis.....	Apr. 1	22861	20. 95
			1, 172. 72

Approved:

OVERTON W. PRICE,
Associate Forester.

Settled July 18, 1908.

1428 INVESTIGATION INTERIOR DEPT. AND BUREAU OF FORESTRY.

[Purchase—Claim 183988—W A P.]

DEPARTMENT OF THE INTERIOR,
Washington, July 7, 1908.

Subject: Authority to pay Forest Service for work on Menominee Reservation.

The COMMISSIONER OF INDIAN AFFAIRS.

SIR: The following showing the account of work on the Menominee Indian Reservation, Wis., in accordance with the agreement of January 22, 1908, between the Secretary of Agriculture and the Secretary of the Interior is hereby approved.

Payee.	Period.	Voucher No.	Amount.
Salaries:			
	1908.		
E. A. Braniff.....	Apr. 1-30	20624	\$150.00
Jas. A. Howarth.....	do.	20624	91.66
A. K. Chittenden (one-half).....	do.	20624	100.00
T. L. Day.....	Apr. 25-30	20615	25.00
Harry Irion.....	Apr. 1-30	20677	100.00
W. E. La Fountain.....	do.	20624	150.00
Mark Burn.....	Apr. 20-30	20634	45.83
W. S. Uhler.....	Apr. 22-30	20624	37.50
E. E. Carter.....	Apr. 1-15	20618	91.67
Reimbursement of expenses:			
E. A. Braniff.....	Apr. 1-30	21656	122.35
Jas. A. Howarth.....	do.	21353	50.72
T. L. Day.....	Apr. 25-30	21467	7.45
W. E. La Fountain.....	Apr. 1-30	22502	50.49
Mark Burn.....	Apr. 20-30	21549	20.86
W. S. Uhler.....	Apr. 22-30	21284	21.35
E. E. Carter.....	Apr. 1-15	21349	42.79
Transportation:			
Denver and Rio Grande R. R.—Transportation, T. L. Day from Durango to Denver, Colo.	Apr. 25	22633	19.60
Chicago Rock Island and Pacific R. R. Co.—Transportation, T. L. Day from Denver, Colo., to Green Bay, Wis.	Apr. 27	22929	24.50
Chesapeake and Ohio Ry. Co.—Transportation, E. E. Carter from Washington, D. C., to Green Bay, Wis.	Apr. 1	22661	20.95
			1,172.72

You are directed to transfer the amount of \$1,172.72 from funds available on the books of the Indian Office to the Forest Service, "Interest on Menominee logging fund."

Very respectfully,

(Signed)

FRANK PIERCE, *Acting Secretary.*

OGP.

Paid by auditor August 5, 1908.

Settled July 18, 1908.

[Claims 183988 and 184262. Settled July 18, 1908.]

The United States to Forest Service, Dr.

For expenses incurred during April and May, 1908, in connection with logging operations on Menominee Reservation, Wis., as follows:

Expenses during April, 1908.....	\$1,172.72
Expenses during May, 1908.....	1,879.67

Amounting to..... 3,052.39

Department letters of authority dated July 7 and 9, 1908, to auditor with this claim, carbon copies with duplicates.

Claims 183988 and 184262. A. B. Ex.

Appropriation, "Interest on Menominee log fund."

Settled July 18, 1908.

[Authority Office of Indian Affairs—Received July 7, 1908.]

183988.—O. A.]

U. S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, June 12, 1908.

HON. FRANCIS E. LEUPP,
Commissioner of Indian Affairs,
Department of the Interior, Washington, D. C.

SIR: I have the honor to inclose herewith statement of account against the Indian Office for cost of work during the month of April, 1908, on the Menominee Indian Reservation, Wisconsin, in accordance with agreement dated January 22, 1908, between the Secretary of Agriculture and the Secretary of the Interior.

It is requested that proper steps be taken to have the amount (\$1,172.72) transferred from the United States Indian Office appropriation to the credit of appropriation "General expenses, Forest Service, 1908."

Very respectfully,

OVERTON W. PRICE,
Associate Forester.

Settled July 18, 1908.

The CHAIRMAN. The record will show the following calls for documents:

ON THE SECRETARY OF THE INTERIOR.

MARCH 2, 1910.

(1) Letters of October 6, 1905, and October 17, 1905, from Special Agent Love to the Commissioner of the General Land Office.

(2) Favorable reports of Special Agent Love to register and receiver of the Juneau land office referred to in Love's report of August 2, 1907.

(3) Copies of all letters and reports to the Juneau land office by Special Agent Love in connection with the Cunningham coal claims.

KNUTE NELSON,
Chairman Joint Committee.

MARCH 2, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee, etc.

DEAR SIR: I beg leave to ask that the Secretary of the Interior be directed to produce to this committee—

(1) The books and papers showing for the years 1907, 1908, and 1909, the efficiency records or state of the business in the several divisions of the Land Office from week to week or month to month, or however otherwise such records are kept.

(2) Original affidavit of Clarence Cunningham dated September 4, 1906.

Yours, truly,

LOUIS BRANDEIS.

The record will also show the following returns from the Department of the Interior of requests for the production of documents:

THE SECRETARY OF THE INTERIOR,
Washington, March 4, 1910.

HON. KNUTE NELSON,
Chairman Committee of Investigation, United States Senate.

SIR: I file herewith certified copies of vouchers and other papers in the Indian Office, Department of the Interior, relating to reimbursement of the Forest Service for work performed in connection with timber upon Indian reservations.

Very respectfully,

R. A. BALLINGER, *Secretary.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 4, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Referring to paragraph 4 in the list of January 29, 1910, I inclose herewith a letter from Chief of Field Division Christensen, dated March 2, 1910, in which he transmits a report book just delivered to him by former Special Agent Love which contains memorandums of his work from June 11, 1907, to April 17, 1908.

Very respectfully,

FRED DENNETT, *Commissioner.*

DEPARTMENT OF THE INTERIOR,
Washington, March 4, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee of Congress.

SIR: Complying with your request of February 24, 1910, calling for "originals of letters of instruction given by special Agent Glavis to Andrew Kennedy and Special Agent Stoner respecting the field examination of the Cunningham coal claims," I hand you herewith a copy of a letter of instructions, dated July 16, 1909, from Chief of Field Division Glavis to Special Agent Andrew Kennedy; copy of telegram from Glavis to Andrew Kennedy, dated June 22, 1909; and the letter of Special Agent Raymond E. Gery, dated February 26, 1910, to the Commissioner of the General Land Office inclosing the above two copies.

Very respectfully,

R. A. BALLINGER, *Secretary.*

The record will also show the following requests for the appearances of witnesses before the committee:

UNITED STATES SENATE,
Washington, D. C., March 2, 1910.

HON. KNUTE NELSON,
*Chairman Joint Investigating Committee,
United States Senate.*

SIR: I have the honor to request that a subpoena be issued for the appearance before your committee as a witness on behalf of the Interior Department of Mr. Elmer E. Todd, United States Attorney, Seattle, Wash.

Very respectfully,

JOHN J. VERTREES,
CARL RASCH,
Attorneys for Secretary Ballinger.

Will show by the witness that the testimony given by Special Agent Jones as to the reasons for not wishing to institute criminal prosecutions relative to the Alaska coal cases as appears on page 958 of the record is false.

UNITED STATES SENATE,
Washington, D. C., March 3, 1910.

SIR: We have the honor to request that Special Agent G. A. Parks, federal building, Seattle, Wash., be called as a witness in the hearing before your committee on behalf of Secretary Ballinger.

Very respectfully,

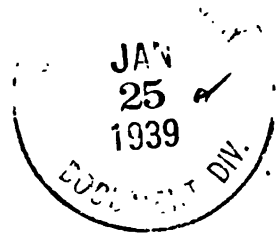
JOHN J. VERTREES,
CARL RASCH.

HON. KNUTE NELSON,
Chairman Joint Committee of Investigation, United States Senate.

This witness is called to prove that he accompanied the assistant custodian of the federal building at Seattle, O'Neill, when the private box of Mr. Glavis was first discovered, and that he did not place in the box the letters that were afterwards found in the box by Mr. Christensen.

The CHAIRMAN. Mr. Vertrees, it is now 5 o'clock and the committee will adjourn until to-morrow morning.

(Accordingly, at 5 o'clock and 5 minutes p. m., the committee adjourned until to-morrow, Saturday, March 5, 1910, at 10 o'clock. m.)



NO. 17

**HEARINGS BEFORE THE COMMITTEE TO INVESTIGATE THE
INTERIOR DEPARTMENT AND FORESTRY SERVICE**

MARCH 5, 1910

**ROOM 207, SENATE OFFICE BUILDING
WASHINGTON, D. C.**

MEMBERS OF THE JOINT COMMITTEE.

KNUTE NELSON, Minnesota, Chairman.

SAMUEL W. McCALL, Massachusetts, Vice-Chairman.

FRANK P. FLINT, California.

GEORGE SUTHERLAND, Utah.

ELIHU ROOT, New York.

WILLIAM E. PURCELL, North Dakota.

DUNCAN U. FLETCHER, Florida.

MARLIN E. OLMSTED, Pennsylvania.

EDWIN DENBY, Michigan.

E. H. MADISON, Kansas.

OLLIE M. JAMES, Kentucky.

JAMES M. GRAHAM, Illinois.

PAUL SLEMAN, Secretary.

SATURDAY, MARCH 5, 1910.

JOINT COMMITTEE TO INVESTIGATE THE INTERIOR
DEPARTMENT AND FORESTRY SERVICE,
Washington, March 5, 1910.

The Joint Committee to Investigate the Interior Department and Forestry Service met, pursuant to adjournment, at 10 a. m.

Present, Senators Nelson (chairman), Flint, Sutherland, Root, and Fletcher; Representatives McCall, Olmsted, Denby, Madison, James, and Graham; Mr. Paul Sleman, secretary; also Mr. Louis D. Brandeis and Mr. Joseph P. Cotton, jr., representing Mr. Louis R. Glavis; also Mr. George Wharton Pepper and Mr. Nathan A. Smyth, representing Mr. Gifford Pinchot; also Messrs. John J. Vertrees and Carl Rasch, representing Secretary Ballinger; also Mr. E. C. Finney.

The CHAIRMAN. The committee will please come to order.

The secretary will read the modification of the rule which the committee have adopted in reference to documents, the modification of the rule that we have heretofore adopted.

Mr. SLEMAN (reading):

Provided, that any of the counsel named may, with the consent of the chairman of the committee, exhibit to his client and copy, through a stenographer or clerk, any of such documents.

The CHAIRMAN. I will further say to counsel for their benefit that the committee have decided to hold sessions next week on Thursday, Friday, and Saturday, so that you can act accordingly. When we adjourn to-night it will be to meet on Thursday morning at 10 o'clock.

Mr. PEPPER. Mr. Chairman, may I inquire whether the word "client" in that resolution is to be strictly construed? In other words, does it mean——

The CHAIRMAN. Oh, I think not. That will apply to any witness.

Mr. PEPPER. Because there are considerable——

The CHAIRMAN. There is no disposition to have any hard and fast rule.

Mr. PEPPER. Exactly.

The CHAIRMAN. And if any controversy arises, if counsel on both sides will confer with me we will have no trouble.

Mr. BRANDEIS. That is, we are to have the liberty of having the assistance which was referred to in going over the documents?

The CHAIRMAN. Certainly; but with the understanding that they are not to be made public in any shape.

Mr. BRANDEIS. Certainly.

The CHAIRMAN. We look to counsel to be responsible. I will also say to counsel that in reference to this matter of documents, if they will call on me about these matters I will consult both sides, and I think there will be no trouble about any of them.

I believe Mr. Pinchot still has the stand. Will you be kind enough to take the stand, Mr. Pinchot?

TESTIMONY OF GIFFORD PINCHOT—Resumed.

The CHAIRMAN. And I will take the liberty of suggesting to counsel to avoid as far as possible going over the same ground more than once. You may proceed, Mr. Vertrees.

Mr. VERTREES. Mr. Pinchot, when we adjourned we were on the subject of your charge that Mr. Ballinger had appeared in the interest of fraudulent claimants before a congressional committee, to the end that there might be obtained favorable legislation.

Mr. OLMSTED. I would suggest that unless this conversation between you and the witness is to be entirely confidential, you might raise your voice so that we may hear at this end of the table.

Mr. VERTREES. Read the question.

(The reporter read the question as follows:)

Mr. Pinchot, when we adjourned we were on the subject of your charge that Mr. Ballinger had appeared in the interest of fraudulent claimants before a congressional committee, to the end that there might be obtained favorable legislation.

Mr. VERTREES. That is correct, is it not? We adjourned on that question?

Mr. PINCHOT. We adjourned on that question, so far as I recall.

Mr. VERTREES. The appearance you had reference to was his appearance before a committee in March, 1908, that was considering a bill known as the "Cale bill," was it not?

Mr. PINCHOT. It was.

Mr. VERTREES. I wish now to call to your attention certain parts of that bill. The bill is printed on page 1413 of the record. I will ask you if that bill does not limit the amount of land which can be entered to 2,560 acres?

Mr. PINCHOT. That is my understanding. It is here in the bill; that is my understanding.

Mr. VERTREES. Also, if it is not true that the bill distinguishes between the coal and the surface of the earth and provides for claimants entering coal but not the land?

Mr. PINCHOT. In what section is that contained?

Mr. VERTREES. In section 2.

Mr. PINCHOT. That is so.

Mr. VERTREES. And does not section 4 of that bill provide that the title to the coal deposit purchased under the act should be forfeited if they should fail to mine and offer for sale quarterly a reasonable amount of coal, such reasonable amount as might be prescribed by the Secretary of the Interior?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Also does it not provide that the title should be forfeited if the party should tacitly or otherwise enter into any contracts, combinations in the form of a trust, or conspiracy in restraint of trade in coal?

Mr. PINCHOT. It does.

Mr. VERTREES. Does it not also provide that all such claims must be located and surveyed as nearly as possible in square or rectangular tracts, not exceeding 2,560 acres of land—section 6, that is.

Mr. PINCHOT. It does.

Mr. VERTREES. Does it not also provide that the act shall not apply to any location made in good faith prior to November 12, 1906?

Mr. PINCHOT. I so read it.

Mr. VERTREES. But it does provide—

Mr. PINCHOT. Except that section 7—

Mr. VERTREES. Well, section 7 cuts no figure, as I understand—anyway, of importance—and therefore I did not refer to it. If you think it does, read it.

Mr. PINCHOT. No; I merely wish to be accurate.

Mr. VERTREES. Does it not provide that persons who have made locations in good faith, prior to November 12, 1906, that such persons may consolidate under the act, but not to exceed 2,560 acres of contiguous land?

Mr. PINCHOT. My understanding is that that refers to locations not made in good faith. Let us see.

Mr. VERTREES. Is not the language expressly "that is made in good faith?"

Mr. PINCHOT [reading]:

that none of the provisions in this act except those contained in section 7 hereof, shall apply to or govern the making of entry of coal lands in the district of Alaska embraced in any location made in good faith prior to November 12, 1906.

In other words, by section 8, as I understand it, entries made in good faith are taken out from under the provisions of this act, and it is made to apply to entries not made in good faith.

Mr. VERTREES. Now, I will ask you, Mr. Pinchot, to read it more carefully, and if its meaning is not just the reverse of that; that is to say, the act shall not apply to entries made, to locations made in good faith prior to 1906 at all.

Mr. PINCHOT. I go back to the provisions of the act [reading]:

that none of the provisions in this act * * * shall apply to or govern the making of entry of coal lands * * * in any location made in good faith prior to November 12, 1906.

That shall not apply to any location made in good faith.

Mr. VERTREES. If you will allow me there, does that not mean—and I want your understanding of it, because that is the basis of your evidence, Mr. Pinchot—that all of the act saving that applies to land which has not been located at all heretofore.

Mr. PINCHOT. Mr. Vertrees, why not ask the question, not what I think about this thing, which is of no importance, but of what Mr. Ballinger himself thought of the matter at the time?

Mr. VERTREES. Well, Mr. Pinchot, I ask you, for the reason that you have come here and not stated the facts, but an inference from what he said, and made a very serious accusation. You have based it upon his appearance before that committee in support of certain legislation, and I want to bring your attention to what the legislation was first, and then we will come to what he said.

Mr. PINCHOT. Well, we are now talking about the legislation, and as to whether or not Mr. Ballinger appeared in advocacy of claims not made in good faith, I refer you to his own statement on the subject.

Mr. VERTREES. Well, he appeared before that committee, did he not, in support of certain legislation?

Mr. PINCHOT. He did.

Mr. VERTREES. And made a speech there?

Mr. PINCHOT. He did.

Mr. VERTREES. This is the act?

Mr. PINCHOT. This is the act.

Mr. VERTREES. You have given us your interpretation of it, have you?

Mr. PINCHOT. I told you that section 8 clearly provides that the preceding sections do not apply to any location made in good faith

Mr. VERTREES. Now go to Mr. Ballinger's argument, which has been set out at page 1241 of the record in your evidence; look at page 1250 at the conclusion of Mr. Ballinger's argument, and I will ask you if this does not appear as one of the things which Mr. Ballinger then said touching this act:

Mr. BALLINGER. Yes, sir; to make them produce. I have some suggestions for amending the bill in some slight particulars, which I will file with the committee.

The suggestions referred to are as follows:

It is suggested that the bill should be amended by adding to line 4, page 2, after the words "price of," the words "not less than," for the reason that it would appear that valuable deposits of anthracite coal, or lands containing large quantities of semi-bituminous coal, should not be disposed of at the same rate per acre as the lower grades of bituminous coal and lignites. By the amendment suggested, the Department of the Interior will be enabled to classify and dispose of the coal deposits at prices commensurate with their ascertained value.

In other words, is not he setting out the proposition there and advocating such amendments as will provide for the classification of these lands so that more than \$10 per acre can be required for those that have more value?

Mr. PINCHOT. My understanding is that he specifically qualified that in such way as not to make it apply to the Cunningham claims.

Mr. PEPPER. Refer to the bottom of page 1247, the last paragraph.

Mr. VERTREES. That is your answer to that question?

Mr. PINCHOT. Let me read the part that was indicated. Mr. Ballinger stated on page 1247 as follows [reading]:

Mr. BALLINGER. I would cover the whole thing by one measure and give some elasticity to the price of the coal. For instance, in line 4, instead of fixing the price at \$10, I would say "not less than \$10," but upon the coals already entered or located I would leave the price as it heretofore was, a flat price of \$10 an acre.

In other words, a specific provision, the effect of which would be to pass the Cunningham claims to patent, if they do pass, at \$10 an acre, and leave all future locations to pay the full price of the coal.

Mr. VERTREES. Mr. Pinchot, isn't it a fact that no legislation could be enacted that would in anywise interfere with the good-faith locations previously made?

Mr. PINCHOT. Mr. Ballinger had already testified, or does testify in this hearing, that these locations were not made in good faith.

Mr. VERTREES. That is not the question about those that were in good faith and those that were not. The question is of such of the 900 made as were made in good faith. You do not understand that they could be affected in anywise by this legislation, do you?

Mr. PINCHOT. That is a legal question which the Department of the Interior would have to settle, but it does not concern the question of the Cunningham claims in any way.

The CHAIRMAN. But, Mr. Pinchot, where a final entry has been made and a certificate issued, could we make an *ex post facto* law that could vary or control those places—would not they have to be passed upon under the law in existence when the entries were made?

Mr. PINCHOT. That, as I have stated, Mr. Chairman, is a legal question. I do not think I am very well qualified to answer.

Mr. VERTREES. Do you not understand the law to be, Mr. Pinchot, when you made this charge against Mr. Ballinger on this point, is that a man acquired a clear and vested right when he made a valid location?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Therefore does not section 8 meet that very question when it says [reading]—

that none of the provisions of this act, except those contained in section 7 hereof, shall apply to or govern the making of entry of coal lands in the district of Alaska embraced in any location made in good faith prior to November 12, 1906.

Mr. PINCHOT. That made the provision of the bill specifically applicable, as I understand it, to the Cunningham claims, because these Cunningham claims were not claims of the kind described in section 8, as I understand it, by Mr. Ballinger's own statement, which is found on page 1248 of the record.

Mr. VERTREES. Now—

Mr. PINCHOT. One minute.

Mr. PEPPER. If you do not mind, I think he ought to answer that, because it will then appear, Mr. Chairman, when he reads.

Senator FLINT. Let him go on and answer it.

Mr. PEPPER. Much obliged to you.

Mr. PINCHOT. The last section of the bill provides for consolidation of existing entries, and does not call for the proof of good faith in the original entry or location.

Mr. PEPPER. Read on, Mr. Pinchot—the last section.

Mr. PINCHOT (reading):

There are a great many charges pending against some of the original entries in Alaska. At the time these fields were located corporations were organized. The men had really no method of taking advantage of these coal measures. It resulted in their getting involved in conditions which upon the records of the Land Office are a technical violation of the statute, and it is a situation which should be cleared up. In my estimation it has not been the intention of the people in the field nor in Alaska to put them in hostility to the laws, but they have been in a position where they could not by virtue of the circumstances accommodate themselves to the laws, and with this last provision they could transmute their present entries into the form suggested by this bill and those new entries would be treated as primary entries. In other words, it would be an abandonment of the old conditions, which have made a great deal of difficulty in the matter of the disposition of the land in many instances.

Mr. JAMES. What page is that on?

Mr. PINCHOT. Twelve hundred and forty-eight.

Mr. VERTREES. Does not that refer exclusively to section 8 of the bill?

Mr. PINCHOT. Part of it refers to section 8 and part of it refers to the whole bill.

Mr. VERTREES. I will ask you, too, if you do not know as a fact with reference to this matter that all of the officers of the Government, from the President down, at that time were taking that same position with reference to this matter?

Mr. PINCHOT. I do not know it as a fact.

Mr. VERTREES. In other words, to be more specific, had not President Roosevelt, in his message of December 3, 1907, among other things, said with reference to the mineral lands [reading]:

In my judgment the Government should have the right to keep the fee of the coal, oil, and gas fields in its own possession and to lease the rights to develop them under proper regulations, or else if the Congress will not adopt this method the coal deposits should be sold under limitations, to conserve them as public utilities, the right to mine coal being separated from the title to the soil. The regulations should permit coal lands to be worked in sufficient quantity by the several corporations. The present limitations have been absurd, excessive, and serve no useful purpose and often render it necessary that there should be either fraud or else abandonment of the work of getting out the coal.

Mr. PINCHOT. Do you read into that, Mr. Vertrees, any insinuation that President Roosevelt recommended the vesting of claims not made in good faith?

Mr. VERTREES. I am insinuating nothing, Mr. Pinchot. I do not think I have said anything that justifies that sort of an inference.

Mr. PINCHOT. You asked me beforehand whether President Roosevelt had not recommended something which was the approximate equal of this, as I understand it.

Mr. VERTREES. I asked you if he had not used that language which I read to you.

Mr. PINCHOT. He certainly used that language, but there is nothing in there which indicates that President Roosevelt favored any bill which did not provide for good faith.

The CHAIRMAN. That is argument. The committee is competent to pass upon the question of what that language means.

Mr. PEPPER. Mr. Chairman, the whole question upon which the witness is being examined is a matter of argument, based upon the terms of the statute and the written testimony of the witness, which is clearly a matter for subsequent consideration by the committee. I have been expecting the committee to say that this whole matter is out of order.

The CHAIRMAN. I did not intend to apply it to counsel; of course counsel can argue.

Mr. PEPPER. I am not proposing to argue now. But when the witness is asked argumentative questions, I am suggesting that he ought not to be cut off if he has to make an argumentative reply. That is all, Mr. Chairman.

Mr. JAMES. If the Chair followed the question, you will recall that Mr. Vertrees asked the question if section 8 of this bill, which has been under discussion here, was not practically recommended by President Roosevelt in that same language. Now, the witness has read that, and he is simply giving his opinion about it, and he certainly is entitled to that right. That is what he was asked for, and he is giving it.

Mr. VERTREES. It seems that the blame of asking that question is going to be laid on me. I will agree with the statement that the whole matter is improper; that is to say, this witness has not stated any facts upon which he based this charge, but he based it upon his understanding, his interpretation, of what Mr. Ballinger had said to the committee. Now, of course, the meaning of what he said to the committee, is a matter for this committee, and not for him at all, and I would never have opened that question, but it was opened and presented to us here in the original examination, as if it were a fact. I did not produce it, nor adduce it, but it was brought here; that inference was presented to this committee. This gentleman came and made a very serious accusation that certain misstatements had been made, and one of them was predicated upon the fact that Mr. Ballinger had misstated his attitude before that committee. He was not there, and he did not hear it; did not know anything about it, but to hear what he has said he refers to the speech of Mr. Ballinger, and then presents his inference on that speech to this committee. Now that was not done by me in cross-examination at all. It was presented to me, and I have merely taken up that which was presented.

Mr. JAMES. But just a moment. Did you not ask him the question if the same position which Mr. Ballinger took before this committee was the same position which President Roosevelt took?

Mr. PINCHOT. Yes, sir.

Mr. JAMES. Now, it was perfectly legitimate for him to reply to that by giving his opinion.

Mr. VERTREES. Did I raise the slightest objection?

Mr. JAMES. I am not questioning your position, but I was merely replying to the chair.

Mr. VERTREES. I was merely trying to put myself right. I wish to be understood, and I believe my position is perfectly sound and right on that, that I am taking up that which was presented and which really ought not to have been presented—his inference as to the meaning—which is not for this committee, is not for him to put before this committee, but it is for this committee. It has been thrust in here and a great deal has been said about it, predicated on it, and I therefore feel it is my right and my duty to go with him along the pathway of his inferences and see how much justification there was for it.

The CHAIRMAN. Go ahead and answer the question. As I understand it, the question was asked, but I interrupted you.

Mr. PINCHOT. I shall have to ask the stenographer to read what question it was, then.

Mr. VERTREES. Well, if you have forgotten the question, I will ask you another, because it is on the same lines. Is it not true that during that investigation to which you have referred the chairman of the committee—

Mr. PINCHOT. Which investigation?

Mr. VERTREES. 1908, before the committee before which Mr. Ballinger appeared.

Mr. PINCHOT. The hearing?

Mr. VERTREES. The hearing. The chairman of the committee asked Mr. Ballinger the question, which question is found on page 1246 of this record:

The CHAIRMAN. There have been many entries made in Alaska under the present law—that is, a great many declaratory statements have been made?

Mr. BALLINGER. The records of the General Land Office show that 33 coal entries have been made in Alaska, embracing about 5,280 acres, made in the local office for coal lands near the Bering River in the Katalla district, and from information on file it would appear that a total of about 66,880 acres of coal land have been located in this district. No other coal interests have been made in Alaska in the General Land Office without information as to the number of locations which have been made in various localities.

I understood you predicated your inference very largely on that statement, too?

Mr. PINCHOT. I said that statement, as I recall it, it referred without question to the Cunningham entries, to the Cunningham claims.

Mr. VERTREES. Well, now, suppose it does, what is there to indicate in that that there is an advocacy of the Cunningham claims?

Mr. PINCHOT. There is nothing in this particular clause to indicate that. But when you add to that the specific advocacy of legislation carefully written there so as to cover the Cunningham cases, which have been described, and the legislation being specifically adopted to meet their needs, then I think there is a very direct connection between the two.

Mr. VERTREES. That is the inference you wish drawn from that statement?

Mr. PINCHOT. That is the inference, yes, which ought to be drawn.

Mr. VERTREES. Now, on page 1247 does it not appear that Mr. Ballinger further says, in reply to a question of Senator Smith, of California:

We must make such disposition of the coals as would encourage the building of a railroad.

Mr. BALLINGER. That is one of the main objects of the instrument as I understand it.

And, further:

Mr. SMITH, of California. Have you considered the advisability of drafting a law applicable to one or two particular localities where we can understand the conditions, and not undertake to make the law applicable throughout that vast country?

Mr. BALLINGER. The conditions do not particularly vary in Alaska. It seems to me that any law you enact should be a law generally applicable to the Territory. The Matanuska coal field, which is about 80 miles from the terminus of the Alaska Railroad, I think that is about right, is also a very large coal field of a high-grade character of coal, and there is an untold field of vast area of coal up in central Alaska, and whatever legislation is enacted for Alaska should embrace that field and all other fields in my estimation.

Did he not say on page 1248:

The only other consideration that Alaska might claim as different from the States would be the consideration of the extraordinary expense of development in that far-distant Territory, of getting machinery into the interior, because some portions are more accessible than others, but there should be liberal disposition exercised regarding the development of those fields, perhaps more liberal than in the States, where the places are easily accessible by railroad connection and transportation.

And did he not further say:

The bill in conclusion provides in the seventh section that the locator may mine coal from the time of its location, under regulations which the Secretary of the Interior—

Mr. PINCHOT. Where is that?

Mr. VERTREES. Down about the middle of page 1248—

may impose, the idea being that the Secretary may grant to locators permits to immediately proceed to develop and mine coal, so that the coal measures may become available without delay.

So far as the uses of the navy are concerned and the demand for coal upon the Pacific coast, the last section of the bill provides for a consolidation of existing interests and does not call for the proof or good faith of the original entry or location. There are a great many charges pending against some of the original entries in Alaska. At the time these fields were located corporations were organized—

I believe you have read that, though?

Mr. PINCHOT. I have.

Mr. VERTREES. Now, one section further, on page 1250. Does not this occur?

Mr. SMITH, of Arizona. But you would leave the development so much freer: the holder so much more secure.

Mr. BALLINGER. I am perfectly in accord with any theory that will get the results that are sought to prevent monopoly in coal, enforce the development, and give the Government an opportunity to get coal for its navy and for other public purposes at a reasonable price. When that can be accomplished, that is all the Government should be looking for, in my estimation.

Now go back on page 1243.

The CHAIRMAN. What page is that?

Mr. VERTREES. Twelve hundred and forty-three. With the committee's permission I will read there, for it states Mr. Ballinger's view

of the matter, a rather lengthy extract in favor of the position that the deposits, while separate from the land, should be sold instead of leased. He says:

The advantages of the sale method appear to me to be numerous and controlling, and are substantially as follows:

First. Under a sale of a deposit an owner would not need that supervision that a lessee would necessarily be under in the matter of protecting the mine as against wasteful and ruinous operation. In operation it will be found that a lessee will naturally have an incentive to produce as much coal, with as little expenditure in honest development, as possible, resulting in many cases of robbing the mine—that is, leaving insufficient timbering, pillars, air shafts, etc., to maintain its permanency while the coal is being removed; and the high-grade, or more valuable coals, will often be worked out and the low grades left in the mine, resulting in a total loss thereof to the public. Furthermore, upon the termination of a lease or other abandonment, government maintenance will be necessary in many cases which would not occur under the sale system. Government maintenance would mean retimbering and a continuance of physical improvements to prevent decay and loss of the deposit from fire, cave ins, etc. It is true that in case of forfeiture under the sale of the deposits similar maintenance would be necessary except upon a resale, but the cases in which forfeiture would occur under the sale system would be small compared with the abandonments or forfeitures under the leasing system.

Second. The collection of rentals, royalties, or tolls, as the case may be, under a leasing system will necessarily involve the maintenance of a numerous body of government employees, at great expense to the Government, and add further expense for a detailed system of accounting. This increased expense involved in the leasing of coal deposits will, of necessity, increase the price of coal to the consumer and will also be a constant menace in administration, as likely to produce, in many instances, public scandal and corrupt practices. These objectionable features would appear to me to be practically removed under a sale of the deposits.

Third. Regulations, under a leasing system, will be likely to trench upon the police power of the States as to mine inspection, supervision, and regulation, where under the sale system there could be little or no conflict.

Fourth. In the operation of a coal mine under a lease from the Federal Government the lease would necessarily have to be so worded as to protect the Government against liability for negligence on the part of the operator, resulting in loss of life or destruction of property. In case the Government's agents were likewise grossly negligent in enforcing the regulations a grave question is presented whether or not the Government is not at least morally liable.

These considerations of advantage in favor of a direct sale of the coal deposits separate from the land, with sufficient limitations to insure a normal output and to prevent combinations in restraint of trade in coal, satisfy me that the leasing system is not practicable in operation as compared with the other.

A direct sale of the coal deposits is more in harmony with the established public-land policy of the United States, and it will doubtless be conceded that the leasing of pasture lands or grazing areas is wholly feasible, while the leasing of mineral deposits, which have to be mined under conditions requiring special inspection and supervision, is not parallel, and that the favoring of the one does not necessarily imply the favoring of the other.

Mr. VERTREES. Was not that the view that Mr. Ballinger presented to that committee?

Mr. PINCHOT. I presume it was. I never happened to have seen it before.

Mr. VERTREES. Now, I wish to call your attention to the bill known as the "Mondell bill," a bill introduced and known as "House bill 19421," introduced March 17, 1908. But before we come to these features, is it not true that the appearance of Mr. Ballinger was on March 3, 1908?

Mr. PINCHOT. It is so stated in the record.

Mr. VERTREES. And that he went out of office as commissioner the next day?

Mr. PINCHOT. So I understand.

Mr. VERTREES. Do you not know as a fact that there was an act passed at that session of Congress—that is to say, the act now in force—which covers the Alaska coal claims?

Mr. PINCHOT. The act, as I understand it, of May 28, 1908.

Mr. VERTREES. You have examined the Mondell bill?

Mr. PINCHOT. I have not.

The CHAIRMAN. I think that bill is on page 617 of Senate document.

Mr. VERTREES. The particular clause I wish to call attention to has already been copied into the record and is to be found on page 600.

The CHAIRMAN. It is House bill 19421?

Mr. VERTREES. Yes, sir. Now, what I wish to get before your mind is if Mr. Garfield, Secretary of the Interior, did not appear before the committee at the hearing which they had on the Mondell bill and make substantially the same contention, that in view of conditions in Alaska there ought to be a provision in the act providing for a combination to an extent of 2,560 acres.

Mr. PINCHOT. The striking difference, as I understand it, between the bill which Mr. Garfield advocated and the bill which Mr. Ballinger advocated was that Mr. Garfield wanted to have the people of the United States get from the coal what it was worth, while Mr. Ballinger advocated that they should get the coal for \$10 an acre.

Mr. VERTREES. Do you not recall that Mr. Ballinger suggested as an amendment to the bill that it should be made so as not to be sold for less than \$10 an acre?

Mr. PINCHOT. Not as to claims already initiated. It merely set a minimum of \$10, it merely made \$10 a minimum, while, as I understand it, the bill which Mr. Garfield advocated specifically required that the coal should be sold for what it was worth.

Mr. VERTREES. And as classified?

Mr. PINCHOT. Yes; and as classified by the Secretary of the Interior.

Mr. VERTREES. You do not understand Mr. Ballinger to insist that the law should interfere with the vested rights of any entrymen or locators?

Mr. PINCHOT. I do not know that I considered that question. Mr. Garfield is here, and he can answer these questions himself.

Mr. VERTREES. What I wish to get at is, on the point put before the committee, if those bills did not provide—if the suggestion, rather, of both gentlemen did not provide—for a law providing for classification and the sale of land according to classification of the coal lands based upon that?

Mr. PINCHOT. I understand nothing of the kind.

Mr. VERTREES. You do not? That is all. Now we want to come to your other statement as to Mr. Ballinger having made misstatements to the President with reference to the protests of Mr. Glavis. I understand you to claim that this is one of the three misstatements you rely upon.

Mr. PINCHOT. One of the three misstatements of the Ronald letter!

Mr. VERTREES. I haven't got to the Ronald letter yet. You said in the beginning he had made three misstatements to the President.

Mr. PINCHOT. I said he had laid before the President a statement which was false in three essential particulars; therefore I referred to the Ronald letter.

Mr. VERTREES. That is what I am getting at. You refer to the Ronald letter. Now, the situation when you laid before the President the Ronald letter was this, was it not, Mr. Pinchot, that he himself had made an elaborate statement in writing to the President?

Mr. PINCHOT. He had.

Mr. VERTREES. Now, with that he submitted the statement of Mr. Dennett, the commissioner, and the statement of Mr. Schwartz, the chief of field service—they were parts of his statement—and the President had replied or made his finding before the Ronald letter was submitted, had he not?

Mr. PINCHOT. He had.

Mr. VERTREES. So that if there was any misrepresentation in that respect it was a misrepresentation that had not at all influenced the judgment or action of the President?

Mr. PINCHOT. On the contrary, it was a misrepresentation which powerfully influenced the judgment of the President, as shown by the fact that in his letter of September 13 he made either no reference at all, as I recall it, or at most a very passing reference, to clear listing, which is one of the most essential features in the whole case.

Mr. VERTREES. Wait a moment. I do not think you understand my question. The President had replied before the Ronald letter had gone to him, had he not?

Mr. PINCHOT. You were referring not to the Ronald letter in the question you asked me, as I understood it, but to Secretary Ballinger's statement of September 4.

Mr. VERTREES. I said to you, or meant to say to you, was Secretary Ballinger's letter accompanied by Mr. Schwartz's letter of September 4 and Mr. Dennett's letter, all of which went to the President on September 4. That is right, is it not?

Mr. PINCHOT. I do not recall whether they went together or not.

Mr. VERTREES. They went to the President September 4 and had been received by him and acted upon by him and reply made by him some time before the Ronald letter went to the President. Is not that true?

Mr. PINCHOT. That is true.

Mr. VERTREES. Now, the question is, If that be true, how could the President's action be in any wise influenced by the Ronald letter?

Mr. PINCHOT. His action of September 13?

Mr. VERTREES. Yes; his action with reference to Mr. Ballinger.

Mr. PINCHOT. As indicated in his letter of September 13 he could not have been influenced, and I have never intimated that, and I do not see that he could.

Mr. VERTREES. Then it comes to this, that your charge subsequent to the President's action, and as a mere matter of communication, Mr. Ballinger wrote a letter to the President, along with which he sent another letter he had received from his friend, Judge Ronald, and which latter letter thus indorsed by the sending of it contained a statement which was not true; is that not it?

Mr. PINCHOT. My statement of it is as follows: That in his letter of September 4 Mr. Ballinger set before the President two essential misstatements of fact, one of which at least was of the most vital importance in determining the issue of what should be done with Glavis and Ballinger, and that he repeated those two essential mis-

statements of fact in his letter which he sent with his reply of November 15 to the President, which reply was a defense against definite statements made by me to the President in my letter of November 4.

Mr. VERTREES. Do I understand that you claim there was a misrepresentation as to this point; that is to say, Glavis's protest, in the letter to the President—the first letter.

Mr. PINCHOT. There certainly was.

Mr. VERTREES. Now, what was that?

Mr. PINCHOT. This: That, on page 76, toward the bottom of the page—

The record in this matter, as shown in Mr. Schwartz's answer, does not bear out the assumptions of Glavis: (1) That action was contrary to the recommendations of Jones and Glavis; (2) that issuance of patents was prevented by Agent Glavis protesting by wire and report January 22, 1908, inasmuch as Glavis's wire was called for by the department by virtue of letter of Assistant Commissioner Fred Dennett, dated January 7, 1908, initialed by H. H. Schwartz, inclosing list of Cunningham group of coal entries, and to which Glavis, on January 22, wired answer to the commissioner from Portland, Oreg., as follows.

Mr. PINCHOT. That is an essential misstatement of fact.

Mr. GRAHAM. Now, are there not whole pages of yesterday's record covering the cross-examination—covering the words and even the commas in that paragraph? Should it be gone into again?

Mr. VERTREES. I am going to bring out something else that I think was not brought out yesterday.

Mr. GRAHAM. I did not think there could be anything more brought out, it was a subject of so much examination yesterday.

Mr. VERTREES. I think there was something that I will show was not brought out yesterday. So, now, does not this point that you here present, as I understand you—that is, it was not first presented by the Ronald letter, but was first presented in the misstatement of Mr. Ballinger's original letter to the President?

Mr. PINCHOT. As I indicated yesterday—

Mr. VERTREES. Yes; and now make that still clearer. After all it is your inference and understanding as to the meaning of that letter, as to the fact of which you yourself knew nothing.

Mr. PINCHOT. We have fortunately Mr. Ballinger's own interpretation.

Mr. VERTREES. That is not the question. I am getting back to the point that after all it is your inference with respect to and your understanding of a communication that you presented to the committee.

Mr. PEPPER. Mr. Chairman, I think there ought to be an understanding between us as to just what Mr. Pinchot's position is on this subject. Mr. Vertrees is pursuing now and pursued yesterday a line of cross-examination, which, of course, would be entirely proper in the case of the examination of a witness who presents himself in a court of justice as a witness to a fact, in which case his testimony is limited to things which he saw or things which he heard. Mr. Pinchot is in the position of a discharged public servant, the conduct of whose department is under investigation before this committee, and who, in connection with his discharge, made certain statements of his belief in the nature of charges, if you please, certain statements of his beliefs based, not upon facts, in the sense that they were occurrences of which he had been an eyewitness, of statements not, in the sense that he had heard those statements orally uttered by

anybody, but made certain charges and uttered certain beliefs which represented the inferences drawn by him from information derived orally from persons claiming to know, and from documents which had been submitted to his inspection. Now, clearly, Mr. Chairman, we are acting at cross-purposes, if it is pressed before you that Mr. Pinchot in restating to the committee what his beliefs were in the premises, and what are the inferences which he drew, is to be constantly criticised or cut off on the theory that he must limit himself to things of which he was an eyewitness, or to statements which he himself has heard orally made. He has proceeded in his examination in chief, and will proceed in his reexamination upon the theory that he is called upon by the very terms of his appearance before the committee to state what his beliefs have been, what are the charges he has to make, and to point out for the future consideration of the committee at the proper time just what the things are in the record in the way of testimony and documents upon which he relies in substantiation of those beliefs and statements.

Now, I want to make, with as great clearness as I can, a statement of his position, because when that statement is made, and if it is understood, it seems to me that it will make it clear that a cross-examination which attempts to treat the case like a case of a witness who has testified to facts observed by himself, is really, with great respect, a waste of the effort of distinguished counsel and of the time of the committee.

Mr. VERTREES. Mr. Chairman, I would like to say one word in answer to that: As previously stated, inference and fact and conclusions have all been given. Now, the object of my cross-examination, and which I have to confess is somewhat tedious, has been to show that what Mr. Pinchot has stated is a matter of belief and not of knowledge, not of fact, but a matter of belief—a matter of suspicion—and I wish to show, if I can, that, so far from it being prompted by the patriotic purposes that prompt men to do that which is for the good of the country, in a very large measure it is due to the disappointment and resentment which comes in the bosom of a discharged public servant. Now, that is one thing I wish to show. The next thing I wish to show, and have been endeavoring to show, is not only that it is a matter of belief on his part, but the very foundation and basis of his belief I have endeavored to get at by this cross-examination. That is to say, I have endeavored to bring him up to the point of showing that his belief is predicated upon what he understands Mr. Ballinger to have written to the President, understanding it and reading it, one way, as he says, that to have been itself in conflict with the facts, and therefore it is a deliberate misstatement so far as Mr. Ballinger is concerned, but such things when he states them in letters to the President are simply mistakes. Now, my next proposition that I am getting along to on that subject, is, I wish to make him state, if I can, what his position is based upon, and his understanding of what Mr. Ballinger wrote to the President, or his interpretation of that document; I then wanted to go a step further and show that it does not bear fairly and justly that interpretation at all, so that I want not only to show that it is a matter of belief with him, but that his belief has no solid, intellectual, rational basis upon which to rest. Now, I have had to state it, though I did not want to state it at all; but it seems to me that in view of the fact

that a broad door was opened through which all of these things were permitted to enter, that I have a perfect right, standing here as the representative of Mr. Ballinger, to keep on as long as it is necessary to do it until I can get an answer to these questions.

Mr. PEPPER. Mr. Chairman, if I may be permitted——

Senator FLINT. I think we have had enough of this.

Mr. PEPPER. Senator, it is an unpleasant thing to protract a session which is necessarily protracted, but I think it my duty to show it is necessary that in so far as what Mr. Vertrees has said has relation to the nature of the charges or statements made by Mr. Pinchot, that we should have been ready to admit at the outset, without any cross-examination or examination whatever, that they are all based upon information derived by him from the documents in the case introduced and to be introduced, and from the statements of witnesses examined and to be examined; that none of them are based upon observations made by him of acts done by people or of conversations overheard by him. As to that, there would have been no disposition to withhold an admission.

As to the second point, whether when Mr. Pinchot has indicated what particular documents or witness's testimony it is that he stands upon, then Mr. Vertrees has accomplished what he wants and knows then just exactly where Mr. Pinchot draws his inferences from, and hereafter it will be the function of counsel to discuss, with the committee's permission, the question whether or not those inferences are, as Mr. Vertrees thinks, unpermissible, or whether, as I think, they are valid and justifiable inferences. I would like to make that distinction and make it as clear as I am capable of.

The CHAIRMAN. What is your last question, Mr. Vertrees?

Mr. VERTREES. I do not recall the last question, but here is the line of thought I was on——

The CHAIRMAN. The reporter will read the question.

(The reporter read as follows:)

Mr. VERTREES. Now, to make that still clearer, after all it is your inference and understanding as to the meaning of that letter, but as to the fact you yourself personally know nothing?

The CHAIRMAN. In other words, I understand the question to be this, that aside from these communications referred to, of his knowledge, the witness knows nothing. Is that the intent and purpose of the question?

Mr. VERTREES. Yes, sir; that is the object of the question.

The CHAIRMAN. It seems to me he can answer it. That is a fair question.

Mr. PINCHOT. A perfectly fair question. I had no knowledge, personal knowledge, of what Mr. Ballinger said to the President.

The CHAIRMAN. That does not answer the question.

Mr. PINCHOT. And I am only basing my statement as to this letter of his upon the letter itself; not on any personal knowledge.

The CHAIRMAN. That was not the question. Aside from those documents and letters that you referred to, have you any information of your own knowledge? That is the point.

Mr. PINCHOT. I have very much information of my own knowledge of parts of this case; yes, sir.

The CHAIRMAN. Or that refers to that matter?

Mr. PINCHOT. In reference to this matter here.

The CHAIRMAN. To the deception practiced upon the President.

Mr. PINCHOT. I have none whatever outside of the documents in the case.

The CHAIRMAN. That answers the question. Outside of the documents in the case you have no information as to the deception practiced upon the President?

Mr. PINCHOT. Outside of these documents; yes, sir.

Mr. VERTREES. Now, outside of these documents, when I was questioning you yesterday, and asked you if it was not a fact that Mr. Ballinger had presented a telegram of Mr. Glavis, which is called the "telegram of protest to the President," while you admitted you did not, your answer is shown on page 1412 as follows:

Mr. PINCHOT. Yes; but he does not set out the letter of Dennett's.

Mr. PINCHOT. Yes, sir; I see it.

Mr. VERTREES. Did you not give that as an answer to me as to why he had put the case before the President?

Mr. PINCHOT. That is my recollection of it; my recollection without referring back, that I had said that if he had included Dennett's letter it would have been wholly impossible for him to make the statement that he does here, which indicates that Glavis's wire was called by the department by virtue of the letter of Assistant Commissioner Fred Dennett, and that I indicated my belief that Mr. Dennett's letter was obviously notifying Glavis that the case was closed and disposed of.

Mr. VERTREES. Now, in point of fact, had not Mr. Dennett's letter been set out fully in Mr. Glavis's letter to the President in his report, a copy of which Mr. Glavis had sent to Mr. Ballinger for answer, and in Mr. Ballinger's answer, which is accompanied by Mr. Schwartz's report, is it not true that Mr. Schwartz also set out the letter in full so that the President had had it in the first instance, and had had it in the second instance; is that not a fact? And I call your attention—

Mr. PINCHOT. One moment.

Mr. VERTREES. I was going to help you out.

Mr. PINCHOT. I do not need your help, thank you. I want to answer that question. I assume that Mr. Vertrees has properly stated the places where these documents occur, but it must be obvious to any one who has followed this case that the complication of it is so great as to make it practically impossible for a man who is busy with other things to do it carefully.

The CHAIRMAN. Mr. Pinchot, is that not a matter of argument instead of an answer to the question?

Mr. PINCHOT. No; I am answering Mr. Vertrees's question.

The CHAIRMAN. His question was whether that letter of Mr. Dennett's was not included both in the reply of Secretary Ballinger and in the reply of Secretary Schwartz submitted to the President.

Mr. PINCHOT. Yes, sir; but I answered that and then I am explaining my answer as I have a right to do. My explanation of my answer is that it is perfectly clear to any man who has followed this case from the start that the number and complication of the documents in it were such as to make it impossible practically for any man in the President's situation to get for himself, in the time that he had for that purpose, the kind of familiarity that would be necessary in order

to do the complicated business, together with this thing, which may be compared with a picture puzzle.

The CHAIRMAN. But do you not know that the President submitted these answers to the Attorney-General and that they were considered by him?

Mr. PINCHOT. I do.

The CHAIRMAN. And reported upon to the President?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. And brought to his attention through the Attorney-General?

Mr. PINCHOT. The report of the Attorney-General was brought to his attention.

The CHAIRMAN. And referred to by the Attorney-General?

Mr. PINCHOT. Just exactly how much of this individual matter was referred to by the Attorney-General I do not recall.

Mr. VERTREES. Mr. Pinchot, look at the Senate document, page 4. There begins the letter of Mr. Glavis himself to the President, which was the first thing presented, and was presented before there was any of this confusion of documents to which you refer. The opening sentence of that letter, as I read it, is this:

SEATTLE, WASH., August 11, 1909.

The PRESIDENT.

SIR: At a recent conference with Mr. Gifford Pinchot in reference to my investigation of the Alaska coal cases, I laid before him the evidence that has been secured, and after a careful consideration of it Mr. Pinchot advised me to submit the matter to you.

Now, if you will look on page 7 you will find in that same document, about the middle of the page, this statement:

Just ten days after the date of this letter of instructions I was advised by letter, dated January 7, 1908, as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 7, 1908.

Mr. LOUIS R. GLAVIS,
Chief of Field Division, Portland, Oreg.

SIR: I inclose herewith for your information a list of Alaska coal entries which, upon report of Special Agent Love, have been clear listed in Division "P," and referred to Division "N" for action.

Very respectfully,

FRED DENNETT,
Assistant Commissioner.

And then:

The list referred to in the letter reads as follows:

And there is set out then another letter, dated January 4, containing the names of all the claimants, or rather 25 of the 33 Cunningham claimants, whose land had been clear listed, and referring to Love's report of August 2, 1907, stating that upon the above report the entries above referred to have been clear listed.

Now, is not this letter which in your answer to me yesterday you complained had not been set forth by Mr. Ballinger, there set forth in the very same communication that went to the President, and copied in full?

Mr. PINCHOT. My answer to you yesterday, as I recall it, was to the effect that if that answer had been submitted—

The CHAIRMAN. That does not answer the question. You asked me if this letter is not set forth here in Glavis's letter.

Mr. PINCHOT. Yes, sir; it is.

The CHAIRMAN. You did not answer that.

Mr. PINCHOT. I will answer it now with pleasure. It is set forth on page 7.

Senator. FLETCHER. It does not need the answer. Everybody can see it. Everybody knows it.

Mr. VERTREES. I think there are things—

Mr. PINCHOT. Mr. Vertrees has interrupted my answer. I was proceeding to reply to that interpretation—

Mr. VERTREES. Wait a moment.

Mr. PEPPER. I think he can answer the question.

Mr. VERTREES. He says I interrupted. I asked him to interpret it, if he did not mean thus and so before I asked him this question.

Mr. PINCHOT. I would like to have the last question read.

(The reporter reads as follows:)

Now, is not this letter which in your answer to me yesterday you complained had not been set forth by Mr. Ballinger there set forth in the very first communication that went to the President copied in full?

Mr. PINCHOT. The part of Mr. Vertrees's question to which I wish now to speak is why he uses the word "complain." What I did say, as I recall it, was not a complaint, but was a statement that if Mr. Dennett's letter had been set forth on page 76 in juxtaposition with Mr. Glavis's telegram, it would not have been possible for Mr. Ballinger to have stated to the President what he did state—that Glavis's wire was called for by the department by virtue of the letter of Assistant Commissioner Fred Dennett.

Mr. MADISON. In other words, your position in the matter is simply this—I ask you for information—that Mr. Dennett, Mr. Glavis's superior, simply wired to him that a certain definite and final action had been taken, or wrote him that a certain definite and final action had been taken. That ended the matter. It did not ask for anything from the subordinate; it did not require any reply from him in the way of protest, or anything of that kind, or information as to whether or not anything should be done with regard to the matter, but so far as he was concerned it was an announcement to him that it was a closed proposition.

Mr. PINCHOT. It was absolutely announced that it was a closed proposition, and so much so—

Mr. MADISON. That is your position.

Mr. PINCHOT. May I make it even clearer?

Mr. MADISON. Yes.

Mr. PINCHOT. Because the letter contained a definite statement that the whole matter was taken out of the division to which Mr. Glavis belonged and put in another division for answer.

Mr. MADISON. So far as I am concerned, I am getting very tired of this form of examination that is going on here whether on one side or the other, whereby the witnesses have their attention called to certain language in certain documents and then asked to explain what that means and put a construction upon it. I think those matters ought to be submitted to us, placed before us clearly, and then in argument of counsel we should be asked to put a construction upon it. Now I think maybe there is too much of that done by what we call both sides here, although we do not recognize sides in this matter. This is an original investigation, but I personally want to say that I am getting tired of that method of examination. Writ-

ten instruments speak for themselves, unless they are ambiguous or obscure and may in certain instances need testimony outside for the purpose of explaining them and making them definite, making definite that which is obscure, but when an instrument is introduced in evidence without any evidence of that kind—any explanation—the instrument speaks for itself, and we are to construe it, and not the witness. I am getting tired of having the witnesses construe these documents for me.

Mr. McCALL. Some of the documents have been read, I think, at least half a dozen times, and much of the examination—I am not reflecting upon the counsel, Mr. Vertrees—has been in the form of argument between the counsel and the witnesses upon matters that, I think, the committee ought to be able to judge from the documents themselves.

Mr. VERTREES. Mr. Chairman, if you will allow me there. Of course I can only accept what has been said at this juncture as a criticism of my methods.

Mr. MADISON. Let me say in all fairness, Mr. Vertrees, that so far as I am concerned I do not want it understood that way. I wanted to say what I did. I felt impelled to say it as to counsel on both sides and as to all the counsel who have been at fault. I think there has been too much of it done. I do not want you to take it as any specific allusion.

Mr. VERTREES. Of course, being disclaimed, I accept that entirely. I could but feel it in the outset, for the reason that I had previously explained to the chairman that I agreed with the committee and do now, that it was not for any witness to come here and attempt to construe a written instrument to this committee. It is for the committee, and I can well see how members of the committee have become tired of this sort of thing; but I have justification in the course I have pursued in this, that that was exactly what was done in the outset and permitted in original examination. The witness came here and stated that Mr. Ballinger deliberately misstated facts to the President, and he said he did that because he said thus and so, in a certain writing, and proceeded to tell what he understood that writing to mean. Now I wish just to get to the point. It has been a continuous argument with me—I concede that, I have had to do it every time; there is hardly a question that has been asked that has not been met by argument. What I wanted to do was to get down to the point with this witness, a part of Mr. Schwartz's statement upon which Mr. Ballinger's statement was predicated, which would absolutely show that there is no foundation even for the inference that he draws by way of interpretation. Now, I feel that in view of the fact that it was construction and inference that was put on that in the original examination, that I am not presuming upon the indulgence of the committee unduly when I insist upon the right to do that thing.

Senator SUTHERLAND. Do you think, Mr. Vertrees, that an incompetent direct examination necessarily leads to an incompetent cross-examination?

Mr. VERTREES. Necessarily.

The CHAIRMAN. Very well, Mr. Vertrees you may proceed; we will get along the best way we can.

Mr. MADISON. While I think the suggestions that have been made may bear fruit in the future, I think—I do not know to what extent I voice the sentiment of my colleagues about the matter—but I felt like voicing my own feeling about it. I would rather prefer to construe these instruments myself, and I know that there are some gentlemen on the committee that feel the same way.

The CHAIRMAN. Let us proceed.

Mr. VERTREES. I think I could dispose of it in three questions.

Mr. PEPPER. May I say I want—

Mr. FLINT. Let us go ahead, Mr. Pepper.

The CHAIRMAN. You may go on, but be kind enough to be brief.

Mr. PEPPER. I will try to be. I should like to have it understood, and if it is not understood, I want to make it plain now to all, that Mr. Pinchot, under my examination, made a statement of conclusions and inferences reached by him and indicated the basis of these inferences and conclusions. My thought was in developing that subject that we should hereafter be called upon to justify the validity of those inferences and conclusions and that I should have an opportunity of making that justification before the committee. If we fail to do it, that is our failure.

The CHAIRMAN. But you can see where this leads us. You furnish testimony through Mr. Pinchot as to his inferences and what they were based on. Now, Mr. Vertrees follows that up by questioning in detail as to these matters from which the inferences are drawn. Of course, from the tack you took his line is legitimate. There may be another question whether he is not going into it further than there is any necessity for. That, of course, I will leave to counsel. We can not lay down any hard and fast rule here. We let you put in everything you had on your side, documents and all.

Mr. PEPPER. I am not objecting, Mr. Chairman; I am simply stating what seems to be treated as a disputable matter, but which is in fact an obviously indisputable one, that Mr. Pinchot has made a statement of inferences and charges and opinions which are based upon certain specific things. The validity of those inferences and statements and charges, it does not seem to me, can best and in the most illuminating way be brought out by the examination of the witness, but hereafter by the argument of counsel before the committee based on those documents and statements of counsel.

The CHAIRMAN. Proceed.

Mr. VERTREES. Is it not true, Mr. Pinchot, referring to those documents from which you have drawn your inferences and conclusions, that Mr. Ballinger in his letter to the President, at page 67 of Senate document, and then again at page 76 of Senate document, deals with this particular question to which you have referred?

Mr. PINCHOT. Yes; it does.

Mr. VERTREES. And you have seized upon the one at page 76 upon which to predicate your accusation or base your inferences that he has deceived the President; is not that true?

Mr. PINCHOT. Yes; the statement on page 76.

Mr. VERTREES. Now, we understand it. Is it not true that on page 67 Mr. Ballinger is stating what was done as he remembers it, assuming to state the facts?

Mr. PINCHOT. Well, it is as he remembers it. I do not know.

Mr. VERTREES. I say assuming to state the facts, is that not true?

Mr. PINCHOT. You mean at the top of page 68?

Mr. VERTREES. No; the bottom of page 67, beginning "Some time during the winter of 1907, ex-Governor Miles C. Moore," etc.

Mr. PINCHOT. What was the question?

Mr. VERTREES. Is he not assuming there to state the facts with reference to the clear listing?

Mr. PINCHOT. Yes.

Mr. VERTREES. Now, I will ask you if at page 76, upon which you have based your inference, this is not what Mr. Ballinger is assuming to do, not to state a fact, but to state an inference, and to reason with the President in this language:

The record in this matter, as shown in Mr. Schwartz's answer, does not bear out the assumptions of Glavis: (1) That action was contrary to the recommendations of Jones and Glavis; (2) that issuance of patents was prevented by Agent Glavis protesting by wire and report January 22, 1908, inasmuch as Glavis's wire was called for by the department by virtue of letter of Assistant Commissioner Fred Dennett, dated January 7, 1908, initialed by H. H. Schwartz, inclosing list of Cunningham group of coal entries, and to which Glavis, on January 22, wired answer to the commissioner from Portland, Oreg., as follows:

Mr. PINCHOT. What is your question?

Mr. VERTREES. Now, my question is whether he is assuming there to state the fact or to make an argument about Mr. Schwartz's answer.

Mr. PINCHOT. It seems to me he states the facts.

Mr. VERTREES. And drawing an inference and conclusion from Mr. Schwartz's answer, he makes a definite statement that the record in this matter does not bear out the assumption of Glavis.

But the point I want to direct your mind to, and to state to the committee is, does he predicate that on Mr. Schwartz's answer, and say that answer does not bear Mr. Glavis out?

Mr. PINCHOT. He does.

Mr. VERTREES. Now, turn to page 223 of the same document and you will find there Mr. Schwartz's answer. I will ask you to read to the committee, beginning with the words "coming to that part of Mr. Glavis's statement in which he says that the action in clear listing the cases," etc., and read until I ask you to stop. I want the full statement there of the answer of Mr. Schwartz of this very question of which you have already said was the basis of Mr. Ballinger's statement.

The CHAIRMAN. Where do you want to begin on that page?

Mr. VERTREES. About the third of the way, where it begins, "coming to that part of Mr. Glavis's statement."

Mr. PINCHOT. I read:

Coming to that part of Mr. Glavis's statement in which he says that the action in clear listing the case (clear listing means that the office is satisfied to permit an entry to proceed to patent if the papers are regular upon their face) was "contrary to recommendations of Agents Jones and Glavis."

No recommendation was ever, to my knowledge, made by either Jones or Glavis prior to the telegram of January 23, 1908, and the records of the department show none. On the contrary, at the time of said clear listing the information in the office in relation to the Cunningham entries consisted of the report of Agent Love, hereinafter referred to, and two reports from Agent Jones. The reports of the latter are general as to the Alaska situation, consisting of a tabulation of the record evidence in the land office at Juneau, and the submission of two or three affidavits from different individuals in different groups, and recommended further investigation. His report of August 10, 1907, contains the following reference to the Cunningham case: "C. Cunningham group, see Exhibit 21," and his concluding recommending part of the report is:

"In view of the fact that the majority of the statements taken in this matter seem to indicate that the lands, which are the subject of this investigation, appear to have

been taken under, to say the least, a misapprehension of the rights of the parties to combine and locate together under one financial arrangement, it is respectfully recommended that a strict investigation be further made of each and every locator's connection with other locators in the groups above mentioned. This is particularly necessary in the matter of the locations made by Christopher, Simmonds, Doughton, Stracey, and Chezum."

It should be borne in mind that the investigations then being made were being made by Special Agents Love and Jones jointly.

The Exhibit 21, referred to above by Special Agent Jones, is an affidavit made by Fred H. Mason on August 5, 1907, and corroborated by A. B. Campbell, two of the coal claimants. (Hereto attached, marked Exhibit 10.) It was, of course, considered in connection with Mr. Love's report of August 2, 1907, in action of office in clear listing the claims.

I am not acquainted personally with either Mr. Mason or Mr. Campbell, but from knowledge and acquaintance gained through my field duty in Idaho and Washington, I know that Fred H. Mason is a prominent citizen of Spokane, and is, I believe, a member of the wholesale hardware house of Holley, Mason, and another whose name I do not recall; and A. B. Campbell is one of the wealthiest mining men in the West and interested in the lead properties at Coeur d'Alene, Idaho. He is usually called Mace Campbell.

Where reference is made herein to "pages" it refers to my office copy of files sent to the Secretary. Copy submitted.

Jones's second report of August 13, 1907 (pp. 37-48), is a tabulated statement of the Alaska coal statements; states that the Guggenheims were constructing railroads near Katalla, and that one M. A. Green was interested in a big group of coal locations located by C. H. Doughton and expresses the elementary proposition that the law "Does not allow one man to locate forty or fifty claims for as many people and advance the money for the development and improvement of the land for the sole purpose of selling the claims at an advance. I do not believe that there is any rule of the General Land Office or of the Department of the Interior that allows a man to traffic in the public lands of the United States by getting others to loan their names in order to advance the personal interests of the agent."

As heretofore indicated—

Mr. JAMES. Could we not just let that be printed in the record?

Mr. PINCHOT. I do not mind reading, but I would like to know how long I am to keep it up.

Mr. VERTREES. I see that you do mind. Stop there and go over on page 225, about the middle of the page, beginning "Judge Ballinger"—

Mr. PINCHOT. Shall I read again?

Mr. VERTREES. Yes.

Mr. PINCHOT (reading):

Judge Ballinger, relying upon the Love report, directed me to send the Cunningham entries to the mineral division for patent, if regular, which was done. At about the same time the mineral division reported the reception of certain additional Cunningham claims not mentioned in Mr. Love's report.

Mr. VERTREES. That will do. Now, acting on the suggestion, I will ask you if all that which appears, beginning with that which Mr. Pinchot began to read at page 223 down to and including that last clause on page 225, be printed.

The CHAIRMAN. That will be admitted.

(The conclusion of the offer is as follows:)

As before stated, while a very great majority of the Alaska coal claims were supposed by the Land Office to have been made by "dummies," that was not its understanding as to the Cunningham group.

The office understood that Special Agents Jones and Love were working in conjunction at Seattle and in Alaska and were investigating coal claims generally. On August 2, 1907, Mr. Love submitted a report as to 26 of the Cunningham claims (pp. 29-30), in which he said:

"In a recent conversation with Mr. Cunningham, who is fully informed on all matters past and all future plans of his principals, he stated that it had always been the hope of these several persons that arrangements might be effected after entry for the joint working of these lands, and that since entry in the local office an effort had been

made by him to secure the formation of a company from amongst the entrymen for the purpose of developing and operating a coal mine on the tracts so entered, and for such purpose a meeting of such entrymen was recently held at Spokane and a committee appointed for the promotion of such an organization and to secure the transfer of the various holdings to a trust company, subject to the perfection of such plans; that such is now in course of formation. At different dates I have recommended to the register and receiver, Juneau, the allowance of the applications of the above entrymen. I believe the action of entrymen toward the formation of a company pending patent, as above set out, to be allowable under that law, but deem it proper to lay the information before you.

"Respectfully,

H. K. LOVE,
"Special Agent, G. L. O."

In considering the weight to be given Love's report in clear listing the Cunningham claims it should be borne in mind that he had been in Alaska for several years; that he was supposed to be a personal appointee of President Roosevelt, with whom he had served in the army, and that his efficiency had never been attacked, except as heretofore indicated in connection with his candidacy for office; also, that Love had at different dates between February 26, 1907, and April 11, 1907, advised the register and receiver at Juneau that the claims were bona fide.

My recollection is that some time in December, 1907, Judge Ballinger gave an oral hearing to representatives of this Cunningham group of claims, and thereafter called for the record.

It will be seen from Love's report that he concludes—

"I believe the action of entrymen toward the formation of a company pending patent, as above set out, to be allowable under the law, but deem it proper to lay this information before you."

What Special Agent Love had in mind by saying he deemed the proposed formation of a company allowable under the law and deemed it proper to lay the information before the office will more plainly appear from the concluding part of Special Agent Love's letter of February 17, 1908 (see top of page 13, Glavis's statement to you), where he says Judge Ballinger was of the opinion that "efforts pending initiated subsequent to entry, looking to the formation of a company and the pooling of lands" was not allowable under the law.

This office has never had a copy of the above letter from Mr. Love to Mr. Glavis. It is believed, however, that Judge Ballinger was misunderstood in his statement of the law, because it is and has ever been the rule as to all forms of entry of public lands that when a qualified applicant has made full compliance on his part by tendering payment and receiving the final certificate (assuming everything is bona fide) he then becomes vested with the full equitable title to the land, and there remains in the Government merely the legal title to be transferred by the issuance of patent, and at any time after the claimant shall have made performance and thereby secured his full equitable title he has under the law a right to dispose of his interest in the land.

Judge Ballinger, relying upon the Love report, directed me to send the Cunningham entries to the mineral division for patent, if regular, which was done. At about the same time the mineral division reported the reception of certain additional Cunningham claims not mentioned in Mr. Love's report, which were directed to be held pending further report.

Mr. VERTREES. Did you not understand that to be the statement in Mr. Schwartz's answer to which Mr. Ballinger refers?

Mr. PINCHOT. That I had no means of knowing.

Mr. VERTREES. You do not know. Now, Mr. Pinchot, your relations with the President—

The CHAIRMAN. Let me ask you there—does not this document say that it is part of Mr. Schwartz's answer?

Mr. PINCHOT. Yes, sir; but Mr. Vertrees asked me further whether that was the part referred to by Mr. Ballinger on page 76. It may be and it may not. I am not sufficiently familiar with the Glavis report, which is a lengthy document, to say that it is the specific part to which he refers.

Mr. VERTREES. Mr. Pinchot, why did you take the course you took with reference to this matter after it had gotten to the point where Mr. Ballinger had been sustained by the President; that is to say,

write the letter you did to Senator Dolliver instead of quietly resigning?

Mr. PINCHOT. Let me get that question clearly. You began, Mr. Vertrees, with reference to my action with the President. Do you refer to that, or do you refer to the Dolliver letter?

Mr. VERTREES. I refer to both; or, if you prefer it——

Mr. PINCHOT. It is immaterial to me.

Mr. VERTREES. I will ask you why you wrote the Dolliver letter?

Mr. PINCHOT. I wrote the Dolliver letter because it seemed to me wise and right, and that fair dealing required that the cases of Messrs. Price and Shaw should be presented at the same time with Mr. Wickersham's defense of Secretary Ballinger, and because Senator Dolliver had asked me to do so.

Mr. VERTREES. Senator Dolliver had asked you to do so?

Mr. PINCHOT. He had.

Mr. VERTREES. So far as the general question of conservation, upon which you expressed yourself so strongly, was concerned, you understood the President to be in sympathy with your views?

Mr. PINCHOT. The President has repeatedly expressed himself to that effect.

Mr. VERTREES. And Secretary Wilson?

Mr. PINCHOT. And Secretary Wilson.

Mr. VERTREES. And yourself, as Forester?

Mr. PINCHOT. I was in favor of my own views; yes, sir.

Mr. VERTREES. That being the situation, with the very kindly relation you had with the President, I want to know why it was that you took the course you did instead of resigning.

Mr. PINCHOT. Do you mean why I wrote the letter to Dolliver?

Mr. VERTREES. Yes.

Mr. PINCHOT. I have already explained that.

Mr. VERTREES. You anticipated that it would make trouble, did you not, with the administration?

Mr. PINCHOT. I thought it was about an even chance, when I wrote that letter, whether I should be removed for writing it or not.

Mr. VERTREES. You rather thought you would, did you not?

Mr. PINCHOT. No; my first judgment of it at the time was that it was about an even chance.

Mr. VERTREES. And you preferred to take that course rather than the one which the gentleman, whom you had represented by the correspondence to be your friend, politically and personally—the President of the United States?

Mr. PINCHOT. I did not quite get the beginning of that question.

Mr. VERTREES. And so you preferred to take the course you did take with reference to the matter, although the President of the United States and yourself bore the relations which the letters you have presented indicate?

Mr. PINCHOT. Do you mean I preferred to take that course instead of what?

Mr. VERTREES. Instead of, say, resigning or continuing?

Mr. PINCHOT. Instead of resigning?

Mr. VERTREES. Yes.

Mr. PINCHOT. Mr. Chairman, I am under the—no; I am not, either. Excuse me. I was going to say that I was under the difficulty by reason of the prohibition of the committee as to mentioning the con-

versation with the President, but I recall that in my letter of November 4 I set forth the statement that I had already told the President that I should not resign, and I may add to that now that I saw no reason at the time why I should resign.

Mr. VERTREES. Well, did any reason subsequently arise?

Mr. PINCHOT. No, sir.

Mr. VERTREES. Your relations with the President were kindly?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. Politically and personally?

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. The course you pursued was not calculated to continue those relations, was it, and you knew they would not be continued, did you not?

Mr. PINCHOT. As I told you, it seemed to me about an even chance whether the result of writing that letter would be my dismissal or not.

Mr. VERTREES. Your judgment was, then, that it was so doubtful as to be an even chance, and you thought——

Mr. PINCHOT. Precisely.

Mr. VERTREES. And you thought the chances were as good that you would remain as that you would not stay?

Mr. PINCHOT. I did.

Mr. VERTREES. And therefore, believing that, and taking that view, you took that course?

Mr. PINCHOT. I did.

Mr. VERTREES. Well knowing that if you were mistaken as to the chances, and that you should be removed, it would result probably in what it has resulted?

Mr. PINCHOT. If I should be removed, I should be removed, yes, sir.

Mr. VERTREES. And when I say that which has resulted, I mean the investigation and the controversy as to the conduct of affairs.

Mr. PINCHOT. The investigation had at that time already been asked for by Mr. Ballinger, and whether or not it had been formally determined upon by action of Congress, it was generally understood to be decided.

Mr. VERTREES. Did you understand your course in any way as aiding that investigation which Mr. Ballinger had called for?

Mr. PINCHOT. My course was not taken with reference to whether it would aid it or not. My course was taken upon other grounds.

Mr. VERTREES. On the contrary, was it not taken with a view of saving Mr. Ballinger?

Mr. PINCHOT. During the investigation?

Mr. VERTREES. From the time this very matter came up, was not that your purpose and your object?

Mr. PINCHOT. Now, let us get this clear. If we are talking about the Dolliver letter I will answer the question, or if we are talking about my conduct from the beginning I will answer that question.

Mr. VERTREES. It is motives now. When did you form the purpose to assault and attack Mr. Ballinger?

Mr. PINCHOT. That, Mr. Chairman, is one of the types of questions which has occasioned so much discussion before this committee which requires——

Mr. VERTREES. It is time now.

Mr. PINCHOT. Which requires explanation, and can not be answered directly, because to answer it just as Mr. Vertrees asked it would be the acceptance of an inference which I can not accept.

Mr. VERTREES. Just one moment. Without going into all these details, what I am trying to get at is, When did you fix or first resolve in your mind that you were going to make an attack on Mr. Ballinger?

Mr. GRAHAM. Mr. Chairman, I want to second the witness's motion. Unconsciously, I think, Mr. Vertrees in this question and in a great many others wraps up an inference which is not justified. This question assumes—

The CHAIRMAN. I think, Mr. Graham, you misunderstood the question.

Mr. GRAHAM. Let me see if I did. The main question was what he assumes there, not with reference to time, and an answer to it, if the witness were not clever enough to have seen the concealed statement in the question, would be to put him in a wrong position.

The CHAIRMAN. The reporter will read the last question.

(The reporter read as follows:)

Without going into all these details, what I am trying to get at is, when did you fix or first resolve in your mind that you were going to make an attack on Mr. Ballinger?

Mr. GRAHAM. You see the quiet assumption there that he had made up his mind to assault Mr. Ballinger.

Mr. DENBY. He is quite capable of stating whether he had or not.

Mr. GRAHAM. But he was not asked that question.

Mr. DENBY. But the question would give him an opportunity to say.

Mr. GRAHAM. No; that was just what the question was not intended to do, if there was an assumption in it. The assumption—and probably unconsciously on the part of the gentleman who framed it—assumed that he had made up his mind to assault Mr. Ballinger, and concealed in the question, and the main point, is “when did you do that?”—assuming that he did do it.

The CHAIRMAN. His statement that he read here before he commenced to testify showed that he made charges against Mr. Ballinger.

Mr. GRAHAM. That is a different thing, Mr. Chairman, from making up his mind to assault him.

Mr. DENBY. I do not think he meant a physical assault.

Mr. GRAHAM. Neither do I, and I do not think the witness thinks that he made up his mind at any time to make a physical or an intellectual or any other kind of an assault on him, in the sense in which the question puts it.

The CHAIRMAN. I would suggest, Mr. Vertrees, that you modify the word “assault.” It may get us out of the difficulty.

Mr. MADISON. That generally gets one into difficulty.

The CHAIRMAN. I suggest that you substitute the word “charges.” I simply make that as a suggestion.

Mr. GRAHAM. No; I only desire that it shall be understood “where we are at.” The question really is divisible, and if put, as I think, fairly, it would be this: Did you make up your mind to attack or assault Mr. Ballinger?

The CHAIRMAN. Well, you are a member of the committee, and you may ask the question.

Mr. GRAHAM. I would prefer really to have the lawyer do it.

The CHAIRMAN. Well, ask him the question yourself. That will help to set the counsel right.

Mr. GRAHAM. To do that I would have to interrupt Mr. Vertrees, which I dislike to do.

The CHAIRMAN. You may go on and ask the question yourself.

Mr. GRAHAM. Very well; I will ask it in order to endeavor to make it clear. Did you at any time make up your mind to assault or attack Mr. Ballinger in this matter?

Mr. PINCHOT. I did not. What I was trying to do, as I have already testified before this committee, was to defend the policy of conservation, and that was the main object and not any assault on Mr. Ballinger.

Mr. GRAHAM. That illustrates the criticism I make on the question. The question assumes that he did do the thing which his answer shows he had not done, and had he answered the question without making the explanation he would have been put in a wrong light.

Mr. DENBY. To make it absolutely clear, let us ask one other question. Did you make any charges against Mr. Ballinger?

Mr. PINCHOT. I did.

Mr. GRAHAM. We suspected that.

Mr. OLMSTED. When did you determine to make the charges against him?

The CHAIRMAN. When did you first determine to make charges, either here or to the President?

Mr. PINCHOT. The answer to that, Mr. Chairman, involves me again in the prohibition of the committee.

The CHAIRMAN. What prohibition? I do not know what you refer to.

Mr. PINCHOT. I refer to the prohibition of the committee, or the agreement between counsel, at the suggestion of Mr. Vertrees, as to testifying to any conversations with the President.

Mr. MADISON. This is a question as to time purely. When did you make up your mind? Give the time; not the circumstances of the case.

(At the suggestion of the chairman, the reporter read the question, as follows:)

The CHAIRMAN. When did you first determine to make the charges?

Mr. MADISON. When did you first do it?

Mr. PINCHOT. That is a difficult question to answer, because what I said was conditional in a conversation which I can not repeat. I should say that the nearest, the most correct answer that I can make to your question would be by answering it as to the time when I decided to present to the committee the charges which came before it. It is a pretty difficult matter, Mr. Chairman, to distinguish between what was necessary in the conservation fight without referring to Mr. Ballinger, and whether at any particular moment the general conservation fight amounted to an attack on any individual man. I think the best answer to that question would be as to the time when I decided to present my preliminary statement, and that was within perhaps a week or ten days of the time when I actually presented it.

Mr. VERTREES. You stated to the committee that you made no charge, but that your purpose was to defend the cause of conservation.

Mr. PINCHOT. I said that I had not made up my mind to make charges against Mr. Ballinger, but that I was fighting the general conservation fight.

Mr. VERTREES. Did you conceive Mr. Ballinger to be an obstacle in the way of what you called "conservation?"

Mr. PINCHOT. Yes, sir.

Mr. VERTREES. How long have you so regarded him?

Mr. PINCHOT. I have regarded Mr. Ballinger as unfriendly to the general cause which we call conservation since I first came in contact with him as a member of the public lands commission, upon his appointment, or shortly after his appointment, as commissioner.

The CHAIRMAN. As Commissioner of the Land Office?

Mr. PINCHOT. As Commissioner of the Land Office.

Mr. VERTREES. And after he became Secretary?

The CHAIRMAN. And that was before—

Mr. VERTREES. That is what I say. I am asking him that question. After he became Secretary, what was your view of Mr. Ballinger then?

Mr. PINCHOT. My view of Mr. Ballinger then was formed anew upon his action with reference to the ranger stations, water-power withdrawals, and so on.

Mr. VERTREES. In other words, Mr. Ballinger's policy as Secretary of the Interior as to ranger stations and water-power site withdrawals you conceived to be opposite to those of his predecessor?

Mr. PINCHOT. I did.

Mr. VERTREES. And you considered them hostile to the cause of conservation?

Mr. PINCHOT. I did.

Mr. VERTREES. And did you conceive it to be your duty to remove that obstacle?

Mr. PINCHOT. If you mean by "obstacle" to remove Mr. Ballinger from office—

Mr. VERTREES. Yes.

Mr. PINCHOT. I did not. I considered it my duty to defend the policies.

Mr. VERTREES. When did you first conclude that the defense of those policies required that some sort of a movement should be made to remove Mr. Ballinger?

Mr. PINCHOT. That is another of those questions, Mr. Chairman.

Mr. MADISON. The best way to answer that, a question of that kind, is "I do not know," and then explain.

Mr. JAMES. The trouble with that question is that it necessitates an explanation before it is answered. He has to explain that he did not do that, and then go ahead and answer.

Mr. MADISON. I merely made the suggestion in order that time might be saved.

Mr. PINCHOT. Will you please read the question?

(The stenographer read the question as follows:)

When did you first conclude that the defense of those policies required that some sort of a movement should be made to remove Mr. Ballinger?

Mr. PINCHOT. The question implies that there existed a necessity to remove Mr. Ballinger.

Mr. GRAHAM. And that you had made up your mind to bring that about.

Mr. PINCHOT. There was no such movement.

Mr. MADISON. If there never was a time when you began a movement to remove Mr. Ballinger, you can just answer that by saying "I never formed such a conclusion," and then go on and explain. It seems to me that is the best way to deal with that question. That question contains an insinuation that is unfair, and a conclusion which the attorney seeks to put in your mouth.

Mr. PINCHOT. I will try to answer the question that way.

Mr. MADISON. I simply make that suggestion in order that we may get along.

Mr. PINCHOT. I will do the best I can.

Mr. VERTREES. That is all the questions I have to ask.

Mr. PEPPER. I have a few questions to ask in redirect examination. In the first place, Mr. Vertrees yesterday in examining you about the matter of publicity on the part of the Forest Service, asked you to procure and produce the opinion of the Attorney-General which you referred to respecting the submission to him of a certain course which the Forest Service proposed to initiate. Have you procured the report of the Forester which contains the submission and the opinion?

Mr. PINCHOT. Yes, sir; this is my annual report for the year 1908, and it contains on page 38 the submission and the opinion.

Mr. PEPPER. And is the little slip or rider I hand you the form of frank that went with the material in transit through the mails?

Mr. PINCHOT. It is.

Mr. PEPPER. Mr. Vertrees, with your permission, to save time, without reading that particular part of it which relates to your inquiry, shall I hand it to the stenographer and have it put into the record?

Mr. VERTREES. Yes.

Mr. PEPPER. There is in the submission and opinion a reference to the frank, and I think the form is necessary to an intelligent reading of the opinion.

The CHAIRMAN. It is admitted.

Mr. PEPPER. On page 38 of the report of the Forester for 1908, beginning with the words "to ascertain whether" down to the signature of the Attorney-General.

The CHAIRMAN. And then put the slip at the foot of it.

Mr. PEPPER. Yes, sir. It should be prefaced, I suppose, as the form of frank referred to in the opinion.

(The opinion and slip are as follows:)

To ascertain whether the work of the section of information as actually carried on was in any way affected by the provision of the law, the Secretary of Agriculture asked the Attorney-General for an opinion. The opinion rendered was in part as follows:

"It is proposed to distribute such statements in typewritten form not only to the chiefs of the Forest Service divisions stationed at Washington and by mail under frank to inspectors and supervisors in the field, but also to state foresters and agricultural and forestry institutions, to individuals interested in such matters, and to newspapers and magazines, including trade journals especially interested in forestry, and to writers for the newspapers and periodical press who request or are interested in the information.

"Your inquiry is whether the Forester may lawfully distribute information to the individuals and bodies enumerated in the manner set forth. You also ask whether if a single newspaper or magazine writer or publisher requests an article or information for use by him in the preparation of an article, may such information be lawfully sent to the inquirer in the form of a letter?"

After quoting from the Revised Statutes, section 520, and from the appropriation act of 1908, the opinion continues:

"You express the view that in distributing such information as is compiled and sent out by the Forest Service, especially to persons engaged in the practice or study of forestry, and generally to the public at large through the newspapers and magazines, you are fulfilling the primary and fundamental duty imposed upon the Department of Agriculture by the section of the Revised Statutes quoted above. Information thus given out will be accompanied by a notice that it is sent in accordance with the proviso to the appropriation act of 1908 just cited. There will therefore be no discrimination; and you say, further, that no money will be paid on this account to any newspaper or magazine or any newspaper or magazine writer or publisher, or to any person not regularly employed in the Forest Service. Obviously, such information as has been collated and distributed heretofore and will continue to be sent out is of value to the public, and certainly your determination that it is so, as head of the Department of Agriculture, is conclusive. Under this state of facts I can see no reason to doubt that your conception of your official duty in this respect is legally correct, and that the Forester may lawfully distribute information as proposed; and I am also of the opinion that information requested by a newspaper or magazine writer or publisher may lawfully be sent in the form of a letter.

"Returning herewith the copies of the forest bulletins for the month of March, 1908, I have the honor to remain,

"Very respectfully,

CHARLES J. BONAPARTE,
"Attorney-General."

The inclosed information is given out by the Forest Service in accordance with the provision of law to the following effect:

"That no part of this appropriation shall be paid or used for the purpose of paying for, in whole or in part, the preparation or publication of any newspaper or magazine article, but this shall not prevent the giving out to all persons without discrimination, *including newspaper and magazine writers and publishers, of any facts or official information of value to the public.*"

The Forest Service will be glad to see a *marked copy* of any paper in which this information may appear. By pasting the attached frank on the wrapper the paper can be mailed without stamp.

Form 386.
PRINTED MATTER.

FOREST SERVICE.

U. S. DEPARTMENT OF AGRICULTURE.
OFFICIAL BUSINESS.

Penalty for private use, \$300.

THE FORESTER,

Forest Service,

(Marked Copy.) *Washington, D. C.*

Mr. PEPPER Mr. Pinchot, in your opening statement and in the course of your examination in chief, and in the cross-examination, emphasis has been laid principally upon two classes of matter, one the particular interest in which you have contended before the committee that Mr. Ballinger has undertaken to deceive the President, and a number of instances in which you think that Mr. Ballinger has manifested his lack of friendliness to conservation—is that correct?

Mr. PINCHOT. That is correct.

Mr. PEPPER. Is it true with respect to both of these classes of matter that they represent inferences drawn by you from documents produced or to be produced before the committee, and from the statements of witnesses produced or to be produced?

Mr. PINCHOT. It was, I think, with a single exception.

Mr. MADISON. I think we all understand that.

Mr. PEPPER. If you please—I am going to be as brief as I can, but I do want to get, in summing up, Mr. Pinchot's position clear on the record.

Mr. MADISON. I think that is unnecessary.

Mr. PEPPER. I am going to try to accommodate myself to the convenience of the committee in every possible way. I was going to ask the witness certain questions——

The CHAIRMAN. Well, Mr. Pepper, he did not answer that last question.

Mr. PINCHOT. Yes; I did.

The CHAIRMAN. You answered that question by saying "with one exception," and I would be glad to have you state that exception.

Mr. PINCHOT. The exception which I think of at the moment is that I learned from Mr. Ballinger directly his opposition to the leasing of coal lands when he first became commissioner.

The CHAIRMAN. Let me see if I understand it; I want to understand it. Aside from that fact, you derived all your inferences from these documents and the statements of other parties?

Mr. PEPPER. And when the chairman says "these documents"——

The CHAIRMAN. I mean all the documents offered or to be offered.

Mr. PEPPER. Yes, sir.

The CHAIRMAN. I take no narrow view of it; I just want to know where I am.

Mr. PINCHOT. So far as I recall at the moment, with that exception, that is true.

Mr. PEPPER. And the statements of witnesses called and to be called?

Mr. PINCHOT. The statements of witnesses called and to be called.

Mr. PEPPER. Now, directing your attention to your inference or opinion that in certain particular cases Mr. Ballinger has undertaken to deceive the President, I ask you, in the first place, whether one of those cases is in connection with the policy adopted by the present Secretary of the Interior respecting water-power withdrawals?

Mr. PINCHOT. It is; and I expect that matter will be fully set forth by the witnesses whom I have asked the committee to call.

Mr. PEPPER. And what is the nature of the inference you desire to have drawn respecting that particular matter?

Mr. PINCHOT. The public welfare and the interests of conservation required that the water-power withdrawals made by Secretary Garfield should be maintained and extended.

The CHAIRMAN. As many million acres as he withdrew for that purpose?

Mr. PINCHOT. One minute, Mr. Chairman.

The CHAIRMAN. As many million acres as he withdrew for that purpose?

Mr. PINCHOT. I will answer your question when I am through answering the other question.

Mr. PEPPER. One minute. I think you misunderstand. I am not asking you about the question of unfriendliness to conservation; I am asking you whether or not it is an inference that you desire the committee to draw that the Secretary of the Interior gave to the President a mistaken apprehension respecting the course which the Secretary of the Interior had actually followed with respect to water-power restorations?

Mr. PINCHOT. My understanding is that the Secretary of the Interior gave to the President the impression that at the time he made the restorations he intended to make the rewithdrawals, and that such was not the fact.

Mr. PEPPER. And do you refer, rightly or wrongly, as the basis of your inference, to the statements in Mr. Ballinger's letter of November 15 to the President?

Mr. PINCHOT. I do.

Mr. PEPPER. And are the witnesses whom you expect to call to substantiate the statement which you have made, and to produce the documents upon which you rely, Messrs. Davis and Newell, for whose attendance here a call has been made?

Mr. PINCHOT. They are.

Mr. MADISON. Was not that all clearly outlined to us before?

Mr. PEPPER. I do not know, Judge Madison, whether it was or not. But with as great rapidity as is consistent with what I think to be my duty I want to summarize certain definite points, so that there will be no misunderstanding about them.

Mr. McCALL. Did you not make that offer formerly on the direct examination?

Mr. PEPPER. Mr. McCall, the situation is this, that there is at the present time in the record a great uncertainty as to just what are the instances that Mr. Pinchot specifies as the instances in which Mr. Ballinger undertook to give the President a mistaken impression of facts. I want to ask certain questions which will put a clean-cut statement on that point for the information of the committee. There is also a similar condition respecting the instances which are believed to show unfriendliness to conservation. I want to ask questions bringing this out, and then I am going to stop, and I think when I have asked those questions that the whole matter will be cleared up and the issue will be defined.

Mr. DENBY. Mr. Pepper, as the inferences of Mr. Pinchot seem to be drawn from the alleged misrepresentation of Mr. Ballinger, would it not be well to ask the witness whether he meant to have the committee draw the inference that the misrepresentations were deliberate and intentional and made for the purpose of misleading the President?

Mr. PEPPER. May I ask the specific instances, and then ask some general questions such as you have suggested?

The CHAIRMAN. Go ahead and ask the questions.

Mr. PEPPER. In the second place, Mr. Pinchot, is it an inference that you desire the committee to draw that Mr. Ballinger conveyed to the President in connection with the Cunningham coal cases any mistaken apprehension of facts?

Mr. PINCHOT. It is.

Mr. PEPPER. Is one of the mistaken apprehensions in connection with the Cunningham coal cases that which relates to the extension of the knowledge which Mr. Ballinger as Land Commissioner had of the Cunningham coal cases?

Mr. PINCHOT. It is.

Mr. PEPPER. What in point of fact is your contention that Mr. Ballinger knew in regard to those cases?

Mr. PINCHOT. Mr. Ballinger—

Mr. PEPPER. I first direct your attention to his relations with Mr. Jones, as indicated by Mr. Jones's testimony.

Mr. PINCHOT. He had, as I understand it, numerous conferences with Mr. Jones, and had put in his hands Jones's reports of August 10.

Mr. PEPPER. Well, you refer to Mr. Jones's testimony in that particular?

Mr. PINCHOT. I refer to Mr. Jones's testimony in that particular.

Mr. PEPPER. In the second place, with respect to Glavis's knowledge of the situation, do you refer to Glavis's testimony respecting what passed between him and the commissioner?

Mr. PINCHOT. I do, and to his letter of November 5.

Mr. PEPPER. With respect to the commissioner's knowledge of the situation, do you refer also to the fact that he drafted the Cale bill, dealing with the Alaska coal land situation?

Mr. PINCHOT. I do.

Mr. PEPPER. Do you refer also to the fact of his appearance before the committee as one qualified to answer questions respecting the pending Alaska cases?

Mr. PINCHOT. I do, and to his reference to those cases there.

Mr. PEPPER. Do you refer also on the subject of Mr. Ballinger's knowledge to the letter of Mr. Ballinger to Mr. Dennett, dated March 31, 1908?

Mr. PINCHOT. I do.

Mr. PEPPER. Which I now hand you?

Mr. PINCHOT. I do.

Mr. PEPPER. Will you please read that letter?

The CHAIRMAN. Is that letter offered in evidence?

Mr. PEPPER. I am offering it now.

Mr. PINCHOT (reading):

MARCH 31, 1908.

HON. FRED DENNETT,

Commissioner General Land Office, Washington, D. C.

MY DEAR FRED: Yours of March 24, in re Clerk Spear, duly received; also communication in reference to Conover matter.

Regarding Clerk Spear, Mr. Battle will write him, asking him to hold on to his present position if possible until June 30. If, however, it develops that a change can be made before this time, I know it would be appreciated, as he is in rather a critical condition, as I am informed.

Frank Fritsch, a German of Sedro-Wooley, has been pestering me about his homestead claim. I referred him to Randolph, but he comes back at me with a letter in German, which I am now forwarding to you. The old man's case appeals to me as one of great hardship, but I doubt if anything can be done for him. I would suggest that you look it up and write him. I can not give you the numbers of the entry or the land.

McDonald, who is representing certain coal entrymen in the Katalla field, was in to see me this morning with Mr. Arnold, president of the First National Bank. McDonald has the only claim that has been developed in that field to the extent of being able to get out coal in any quantity. I refused to accept a retainer or compensation for advice, but advised them to keep their entries perfectly clean and not to mine coal beyond a reasonable limit of prospecting and development. It will be several months before their claims will be ready for entry. I am impressed with the belief that they are all acting bona fide and within the law. I advised Mr. Arnold to write to Glavis to call upon him when in Seattle, so that he could lay before him their situation. I find that the Alaska entrymen are in hearty accord with the main features of the Cale bill and would like to see the same enacted into a law.

I had a letter from Mr. Mondell in regard to this bill, H. R. 19421, a carbon copy of my answer to which I herewith inclose to you.

Mr. C. J. Smith also called on me the other day regarding the claim in the Katalla coal field which he, ex-Governor Moore, and others are interested in, and which was ordered to patent and afterwards verbally suspended. Mr. Heltman understands the circumstances. Mr. Smith will probably visit Washington in the course of two or three weeks, hoping to jar loose these entries and have them proceed to patent. I had to explain to him somewhat in detail the situation, and, if he calls on me for the same, I will give him a letter to you and the Secretary. I think that it will be a mistake to continue to hold up the entries in this field against which no reasonable protest exists, and that it would be good policy to speedily clear up the situation. Of course I realize that it may be advisable to hold matters in abeyance until this session of Con-

gress adjourns, to see if any remedial legislation is secured, but that should not, however, affect the rights of entrymen where no valid protest or charge exists against the entries.

You are at liberty to show this letter to either Mr. Mondell or the Secretary if you think advisable.

With best regards, I remain yours, very sincerely,

That letter is not signed and is submitted as a copy.

The CHAIRMAN. It is admitted. Who is it from? Where did you get that letter? Is that among the file sent up?

Mr. PEPPER. Yes, sir; it is one of the file sent up.

The CHAIRMAN. It will be received.

Mr. VERTREES. Who does it purport to be from?

Mr. PEPPER. The department indexes it as a letter from Mr. Ballinger to Mr. Dennett.

The CHAIRMAN. It was written when Mr. Ballinger was out of office?

Mr. PEPPER. Yes; just afterwards. The date of it is——

Mr. PINCHOT. March 31, 1908.

Mr. PEPPER. Now, Mr. Pinchot, referring to the letter of Glavis to the commissioner dated November 5, 1907, which appears on page 811 of the testimony, I ask whether you desire the committee to draw any inference from the failure to submit that letter to the President as bearing particularly upon the matter, stated on page 76, of Mr. Glavis's letter of September 4?

Mr. PINCHOT. If Mr. Ballinger had submitted the letter of Mr. Glavis of November 5, it is obvious that it would not have been possible for him to say the record in this case, as shown in Schwartz's answer, does not bear out the assumption of Glavis, which we occasionally see, contrary to the recommendation of Jones and Glavis.

Mr. PEPPER. And I ask in the next place whether you desire the committee to draw an inference respecting Mr. Ballinger's interpretation of Glavis's relation to the revocation of the clear-listing order?

Mr. PINCHOT. It is perfectly obvious that if the President had understood that Glavis was the man who was responsible for the revocation of the clear-listing order it would not have been possible for him to dismiss Glavis from the public service. Glavis in that matter was the one man who stood between the loss of these enormously valuable coal lands and the people of the country; and the statement of the case as Mr. Ballinger submits it to the President conceals that which is, from one point of view, the most essential facts.

Mr. PEPPER. And has that any relation to what you have said, respecting one of the points in the Ronald letter?

Mr. PINCHOT. It has. The misrepresentation contained in that letter of September 4 is repeated in the Ronald letter.

Mr. PEPPER. And the inference which you ask the committee to draw is based upon the documents which have been produced here, about which you have been questioned, and upon testimony produced orally by the witnesses before the committee?

Mr. PINCHOT. It has.

Mr. PEPPER. Do you desire the committee to draw any inference respecting the contradiction by Judge Ronald, as contained in that letter of Doctor Abbott's statement published in the Outlook respecting the advocacy of legislation to the benefit of claims known to be fraudulent?

Mr. PINCHOT. It has already appeared fully from the evidence that Mr. Ballinger himself advocated claims which he understood to be outside the law.

Mr. PEPPER. And is there, in addition, matter which has heretofore been discussed before the committee respecting the Indian cooperative agreement?

Mr. PINCHOT. There is.

Mr. PEPPER. And the relation of the comptroller's decision thereto?

Mr. PINCHOT. There is.

Mr. PEPPER. And finally in this list about which I am questioning you, is there any inference which you desire the committee to draw respecting the statement of Mr. Ballinger in regard to the relation of the act of May 28, 1908, to the Cunningham cases?

Mr. PINCHOT. Mr. Ballinger's statement to the President, as I recall his language, that the act of May 28, 1908, could not have reference to the Cunningham claims.

Mr. PEPPER. Primarily or something of that sort; I can not find the language.

Mr. PINCHOT. Because the claimants had at that time decided to act under the old law; then within four or five days of the making of the Pierce decision we find Mr. Ballinger writing to Miles C. Moore, indicating to him how he could get patent under the law, which he had said to the President the claimant had definitely decided not to take advantage of.

Mr. PEPPER. To what do you refer?

Mr. PINCHOT. I refer to the letter of May 22, 1909, to the Hon. Miles C. Moore, and to the letter—

Mr. PEPPER. From whom?

Mr. PINCHOT. From the commissioner; it is not signed. And the letter of May 24, 1909, from Mr. Ballinger to Miles C. Moore.

Mr. PEPPER. Appearing upon what pages?

Mr. PINCHOT. Upon pages 197 and 198 of the testimony.

Mr. BRANDEIS. Of the list of orders?

Mr. PINCHOT. Of the list of orders.

Mr. PEPPER. Now, Mr. Pinchot, with regard to the instance of what you believe to be instances of unfriendliness to conservation on Mr. Ballinger's part, I want you just briefly to state to the committee what the situation is in that matter.

Mr. PINCHOT. Briefly, it is that during his incumbency as Secretary of the Interior there have come up repeatedly difficulties between the interests of conservation and private interests, in each of which cases Mr. Ballinger has always been found on the side of the special interests as against the public interests.

Mr. PEPPER. Will you please take up first the water-power situation and indicate what the issue there was?

Mr. PINCHOT. The issue was between the freedom of entry and the holding of the land for the Government until Congress could act. The power interests required the restoration of the land; public interests required that they should be held; Mr. Ballinger restored them.

Mr. PEPPER. In respect to that matter, do you refer to the testimony to be adduced by Mr. Davis and Mr. Newhall and to the documents which will be brought in?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. In the second place, in regard to coal cases, does any such issues as you have described arise?

Mr. PINCHOT. They arose in the coal cases; and in each case Mr. Ballinger was found on the side that would permit these lands to go from the people into private ownership, under circumstances very unfavorable to the public interests.

Mr. PEPPER. What was the issue that was presented in 1907 after Mr. Jones had received instructions to investigate the coal cases thoroughly?

Mr. OLMSTED. Let me ask a question of both of you. Are those matters to which the witness is now testifying matters of his own knowledge or matters which are to be found in the testimony?

Mr. PEPPER. Mr. Olmsted, for the convenience of the committee, I am making a summary statement, so that there will be no doubt as to just what the witness means, and I am asking specifically the particular cases of what he regards as Mr. Ballinger's exhibitions of unfriendliness to conservation; and I am going to give him an opportunity in connection with each one to specify just what in the record he does refer to.

Mr. OLMSTED. Is that not more properly a matter for counsel?

The CHAIRMAN. It seems to me all this is a matter of argument and should come from counsel.

Mr. DENBY. You do this on the theory that this is the complaining witness?

Mr. PEPPER. I do this upon the theory that in the course of the cross-examination—I am not criticising it—the question arose as to just what Mr. Pinchot means when he says that Mr. Ballinger has been unfriendly toward the conservation interests, and I wish to give the committee the benefit of the specific statement of Mr. Pinchot as to just what he does mean, and I want to do it—

Mr. DENBY. He has been on the witness stand for a week and has had opportunity to give the committee during that time all this information.

Mr. PEPPER. He has, Mr. Denby, so far as relates to the long cross-examination, which, of course, has not produced the thing in orderly form and which, within the bounds of perfect propriety, has developed a rather disjointed statement on that subject.

The CHAIRMAN. Go on. This is merely a summary of his testimony; that is all it is.

Mr. PEPPER. I am not attempting to elicit any new matter.

Mr. DENBY. He was directly examined before the cross-examination.

Mr. MADISON. I want to suggest, in the kindest way in the world, that I feel that all this matter that has been brought out, that I had it before that. I got it from Mr. Pinchot and I had it sufficiently arranged in my mind to understand it in an orderly way, and I have no doubt but what the other members of the committee feel the same way, and it is really traveling over ground that has been gone over. That is my view about it.

Mr. PEPPER. I think, perhaps, in five or ten minutes' time that I can conclude just in the line that I have begun.

The CHAIRMAN. Go ahead.

Mr. PEPPER. In the second place, referring to the summer of 1907—

Mr. PINCHOT. I do not think I answered your first question, did I?

Mr. PEPPER. I beg your pardon.

Mr. PINCHOT. Briefly, the situation was that the public interests required that Jones should make a full examination. The interests of the claimants required that the examination should be as brief as possible. Mr. Ballinger decided for a brief examination.

Mr. PEPPER. Subsequent thereto what was the issue respecting the making of a thorough and final examination?

Mr. PINCHOT. The interests of conservation required, of course, that Glavis should proceed with the investigation which I had ordered him to make.

Mr. PEPPER. I am not referring now to the case at the time when Glavis had been ordered to make the examination, but as to whether any examination should be made.

Mr. PINCHOT. I beg your pardon; I did not understand your question. There was no examination made until Glavis demanded it.

Mr. PEPPER. Excepting such as was made by Jones?

Mr. PINCHOT. Yes, sir.

Mr. PEPPER. And you are referring now to the testimony of Jones and of Glavis?

Mr. PINCHOT. I am. And the public interests required that such examination should be made during that summer. It was not made until Glavis provoked it.

Mr. PEPPER. With respect to the case of the clear listing of the Cunningham claims, what was the issue there?

Mr. PINCHOT. The issue was between holding these claims until a proper examination should be made or letting them pass to patent without proper examination. Conservation principles required that they should be held, and the interests of the claimants required that they should be patented. Mr. Ballinger ordered the clear listing.

Mr. PEPPER. What is the situation with reference to the drafting of the Cale bill?

Mr. PINCHOT. It is, obviously, that Congress believed——

The CHAIRMAN. You have already been over that.

Mr. PEPPER. If you will permit me, I am going simply very briefly to run over the instances.

The CHAIRMAN. You have already referred to the Cale bill.

Mr. JAMES. The Cale bill was brought out in cross-examination.

The CHAIRMAN. I mean in this examination.

Mr. PEPPER. No, sir.

Mr. JAMES. I think he ought to have a right to cross-examine.

Mr. PEPPER. I will just ask one question on that subject.

Mr. PINCHOT. The interests of the people require that that sort of action that was taken afterwards by Congress should be taken, and that fraudulent entries should not go to patent for the price of \$10 an acre. Mr. Ballinger took the position against the public interests.

Mr. PEPPER. And what was the issue when, after Mr. Ballinger ceased to be land commissioner, he accepted employment on the part of the Cunningham claimants?

Mr. PINCHOT. It was perfectly clear that the public interests required that the information Mr. Ballinger had secured when he was in the government service, as to both what the Government

knew and what it did not know, should not be put into the hands of claimants, but he put it there.

Mr. PEPPER. When the Pierce opinion was obtained upon the meaning and interpretation of the act of 1908, what was the issue?

Mr. PINCHOT. The issue was as to whether the interpretation should permit coal claims of that character to go to patent until every effort had been made to prevent it under the decision. The public interests required that the matter should be carried to the highest tribunal, which was the Attorney-General, instead of accepting the Pierce decision. Mr. Ballinger accepted the Pierce decision.

The CHAIRMAN. It is 5 minutes after 1, and we will take a recess until 2 o'clock.

(At 1.05 a recess was taken until 2 p. m.)

AFTER RECESS.

The committee reassembled at 2 o'clock p. m.

The CHAIRMAN. The committee will please come to order if a quorum is present. Mr. Pepper may proceed.

Mr. PEPPER. Mr. Pinchot, before adjournment you were, at my request, summarizing instances which you desired to call to the committee's attention of what you regarded as Mr. Ballinger's unfriendliness to conservation. I had questioned you respecting the instances connected with the Cunningham coal cases. May I ask you just to state one or two concluding instances?

Mr. PINCHOT. The two which occur to me, Mr. Pepper, are the cases of the ranger stations, first.

Mr. PEPPER. Where the issue was what?

Mr. PINCHOT. The issue was as to whether withdrawals should continue of these ranger stations, which was clearly and undisputably in the public interest if it could be properly done. Mr. Ballinger decided not on the side of the public interest, but on the other side, as in the previous cases.

Mr. PEPPER. And with respect to the last matter which, I think, was that of the cooperation in the treatment of forests on Indian reservations, what was the situation there?

Mr. PINCHOT. The principles of conservation, the Government's interests evidently required that this agreement should be carried out if it could be legally done without consulting the comptroller. Mr. Ballinger decided against it.

Mr. PEPPER. Well, now, Mr. Pinchot, you have summarized at my request the matter of unfriendliness to conservation and the cases in which you desired the committee should draw the inference that Mr. Ballinger misled the President. I now remind you that during your cross-examination certain questions were raised as to the significance of your omission to swear to your opening statement. I want to ask you three questions. In so far as that opening statement was the statement of intention to prove the facts therein summarized, do you swear that you had and have that intention?

Mr. PINCHOT. I do.

Mr. PEPPER. In so far as that opening statement was an expression by you of the beliefs therein contained, did you then and do you now have those beliefs?

Mr. PINCHOT. I do.

Mr. PEPPER. In so far as the statement contained any statements of fact, do you swear that the facts therein stated are true to the best of your knowledge and belief?

Mr. PINCHOT. I do.

Mr. PEPPER. Mr. Chairman, I shall simply conclude by offering formally in evidence two telegrams which were read yesterday and which have already been printed on page 1412 of the testimony. I refer to the telegrams of Miles C. Moore to Mr. Ballinger, under date of February 27, 1908, and the telegram of Mr. Ballinger to Moore, February 28, 1909, and ask that these be received in evidence.

The CHAIRMAN. They are already in evidence.

Mr. PEPPER. I simply wanted to have the formal order on that subject. I read them during the cross-examination.

The CHAIRMAN. They are admitted.

Mr. PEPPER. I had no right to offer them at that time.

And then I wish to offer in evidence a letter produced from the files, or a copy of which is produced from the files of the Department of the Interior, written by John W. Duddley, register, to Mr. Clarence Cunningham, Juneau, Alaska, April 19, 1907.

The CHAIRMAN. Register of the Juneau land office?

Mr. PEPPER. Yes, sir.

The CHAIRMAN. That is admitted.

(The letter is as follows:)

DEPARTMENT OF THE INTERIOR
UNITED STATES LAND OFFICE,
Juneau, Alaska, April 19, 1907.

Mr. CLARENCE CUNNINGHAM,
Washington Annex Hotel, Seattle, Wash.

DEAR MR. CUNNINGHAM: Mr. Mullen has asked me to answer your letter of April 15, and give you the particulars you desire.

The entries which have been allowed to date and for which receiver's receipts have been issued are:

- | | |
|-----------------------|-------------------------|
| 1. A. L. Schofield. | 12. Charles Cunningham. |
| 2. Francis Jenkins. | 13. A. B. Campbell. |
| 3. C. J. Smith. | 14. Henry Wick. |
| 4. H. C. Henry. | 15. Hugh B. Wick. |
| 5. Ignatius Mullen. | 16. Fred Mason. |
| 6. Henry White. | 17. W. E. Miller. |
| 7. H. E. Collins. | 18. Charles Sweeney. |
| 8. F. C. Davidson. | 19. B. C. Riblet. |
| 9. Michael Doneen. | 20. F. C. Moore. |
| 10. Frank F. Johnson. | 21. Alfred Page. |
| 11. J. G. Cunningham. | |

Those who have not yet sent the \$1,600 for the purchase price are F. A. Moore, N. B. Nelson, and W. H. Warner. Mr. Mullen has \$1,600 in his hands which he believes belongs to A. D. Jones, though the bank in Seattle in sending it, said that it was from C. D. Jones, who had already sent the amount. Mr. Mullen has written to the bank about the matter and it will probably be straightened out without any trouble. Neither of the Joneses have sent their affidavit to Mr. Love, or if they have it reached Juneau after his departure.

Those whose affidavits had not reached Mr. Love prior to his leaving Juneau, are:

- | | |
|---------------------|-------------------|
| 1. Frank A. Moore. | 6. M. C. Moore. |
| 2. Fred. Burbridge. | 7. W. H. Warner. |
| 3. R. K. Neill. | 8. John A. Finch. |
| 4. J. K. Neill. | 9. W. B. Moore. |
| 5. O. D. Jones. | 10. A. D. Jones. |

We have the affidavit of N. B. Nelson, but he has not sent his money.

The affidavit of W. W. Baker, which you, sent with your letter, I am returning and I would urge you by all means to see Mr. Baker and have him eliminate the words which I have inclosed in pencil brackets. You know we know and the department knows that there will be a coalition of interests as soon as patent is granted to all in your group, and it asks nothing about such a matter, except that there be no understanding or agreement to such an end before patent. But when the applicant states in an affidavit that he hopes or expects to enter in combination or company with adjoining applicants he not only casts a doubt on his own assertions of good faith, but also on that of those adjacent applicants, who comprise a group such as yours. I am afraid that if Mr. Baker insists on the affidavit as he has executed it, there will be a searching inquiry instituted by the department which will at least involve an interminable delay.

As to the matter of the eleven affidavits which have not reached Mr. Love, it is possible that it may be two months or more before he can receive them, and return them to us with his report. Before he left Juneau, he told Mr. Mullen that he considered all of your applications as ready for entry, so far as he was concerned, and in view of this and of the delay, should we wait for the return of all of those affidavits from him, we will allow entry on the remainder, and forward them to the commissioner, and take chances on its being irregular. But you should see that all of the persons whose affidavits are lacking send them to Mr. H. K. Love, special agent, General Land Office, Valdez, Alaska, at once, and we will forward them to the department afterwards.

With kind regards, I am yours, very truly,

Yours, very truly,

JOHN W. DUDLEY, *Register*.

Mr. PEPPER. That is all, Mr. Pinchot.

Senator FLETCHER. Mr. Chairman, if the counsel are through, I would like to ask the witness some questions.

The CHAIRMAN. Certainly; you are entitled to ask all the questions you like.

Senator FLETCHER. While you are on the stand I want to get some information regarding the administration of the Forestry Bureau, and as a foundation for these questions I would like to call your attention to the resolution which creates this committee. It not only authorizes but directs us to make a thorough and complete investigation of the administration, action, and conduct of the Department of the Interior and its several bureaus, officers, and employees, and of the Bureau of Forestry in the Department of Agriculture and its officers and employees. Now, getting away from all questions of differences between the officials and personal relations and all that sort of thing, I would like to ask if the work of the Forestry Service has not been mainly based on the act of June 4, 1897, found at page 214 of the Use Book?

Mr. PINCHOT. It has been mainly based on that act.

Senator FLETCHER. Now, that act provides:

But it is not the purpose or intent of these provisions, or of the act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein or for agricultural purposes than for forest purposes.

It also provides that the Secretary of the Interior may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and preserve the forests thereon from destruction, and any violation of the provisions of this act and of such rules and regulations shall be punished as is provided for in the act of June 4, 1888.

Now, has or has not the administration of affairs of the Forest Service been conducted very largely under the rules and regulations made by the Secretary of the Interior?

Mr. PINCHOT. Made by the Secretary of Agriculture more recently. The charge of the national forests, Senator, was transferred

from the Department of the Interior on February 1, 1905, to the Department of Agriculture.

Senator FLETCHER. Now, has the Secretary of Agriculture promulgated rules and regulations—

Mr. PINCHOT. He has.

Senator FLETCHER. With respect to the forest reserves?

Mr. PINCHOT. He has.

Senator FLETCHER. They take the place of the rules and regulations provided in this act to be made by the Secretary of the Interior?

Mr. PINCHOT. They do.

The CHAIRMAN. I will say to the Senator that the act puts the Secretary of Agriculture just where the Secretary of the Interior was when that act was passed.

Senator FLETCHER. I understand that, Mr. Chairman. What I am getting at is that not only under the law as it is expressed in this act, but the rules and regulations promulgated have been the foundation and basis of the action and conduct of the affairs of the Forest Service.

Mr. PINCHOT. Yes, sir.

Senator FLETCHER. Now, under this act, and under the rules and regulations, has or has not the Forest Service governed, controlled, and disposed of forest reserves and their resources as it saw fit?

Mr. PINCHOT. It has followed the rules and regulations, Senator, if I understand you. It has done its best, subject to rules and regulations and to the law.

Senator FLETCHER. Has the service intended and aimed that the forest reserves should become self-supporting and profitable?

Mr. PINCHOT. It has.

Senator FLETCHER. How does the cost of administration compare with the receipts?

Mr. PINCHOT. The cost of administration is much larger than the receipts.

Senator FLETCHER. If these reserves are to be made self-supporting, will or will not that involve overcharge and exhaustion?

Mr. PINCHOT. Absolutely not. The national forests will be made self-supporting on the basis of what they themselves produce, under forms of management which will make them more and more productive all the time instead of less so. If I get the difficulty in your mind, Senator, I can answer what I think you have in mind. The object of the Forest Service is to secure such reproduction of the timber and of the range, etc., as will make it more valuable instead of less so.

Senator FLETCHER. Will not that policy and the result of the forest reservations be to discourage development and settlement?

Mr. PINCHOT. It will not.

Senator FLETCHER. Why not?

Mr. PINCHOT. Because all land in each national forest that is valuable for mineral purposes is open to mineral entry, and under the law of June 11, 1906, all agricultural land in each national forest as soon as its agricultural character is established, may be opened to entry, so that the only kind of land that will remain in the government ownership permanently under the law is land that is more valuable for timber purposes than for either mineral purposes or agricultural purposes.

Senator FLETCHER. We will get at that more particularly directly. I would ask you another question. I do not want it understood that I am criticising or finding fault or complaining of anything or anybody.

Mr. PINCHOT. Certainly.

Senator FLETCHER. But I am trying to get information. Are there any secret regulations in the Forest Service or secret instructions given to supervisors of ranges which amount to laws governing the forest reserves?

Mr. PINCHOT. None that I have heard of. There are of course instructions given to the forest officials in addition to those in the Use Book, just as any man gives instructions to the men who are carrying on his business, but there is nothing secret about them so far as I am aware.

Senator FLETCHER. They do not amount to regulations or rules which are kept from the public?

Mr. PINCHOT. Not that I know of.

Senator FLETCHER. Now, in the earlier part of the development of the forest reserve policy were you not originally critical of grazing, taking the position that that was injurious to the timber?

Mr. PINCHOT. I have always held, so far as I know, Senator, that overgrazing was injurious, but that grazing properly regulated was necessary and desirable. And under my administration there were, when I was dismissed, in round numbers, about a million and a half cattle and horses and upward of seven million sheep grazing on the national forests—a very large increase over the time when I came in.

Mr. GRAHAM. Senator, will you ask him to give you the reasons for that opinion?

Senator FLETCHER. The question is to give your reasons for that opinion.

Mr. PINCHOT. As to the grazing?

Senator FLETCHER. Yes.

Mr. PINCHOT. There are two reasons. One is that the national forests over a considerable part of the Rocky Mountain region are covered somewhat sparsely with timber—that is, trees stand materially far apart, and there is a great deal of grass and weeds, which is available for grazing, growing in between the trees, and the harvesting of that forage crop can only be done by grazing animals, and unless these animals are so numerous as to tramp down and feed out the young trees themselves, they do very little damage. On the other hand, overgrazing under such circumstances often wipes the country clean of production. In the second place, there are considerable deforested areas in the national forests, areas more available for growth of trees than for other purposes, but which have been temporarily cleared of trees mainly by fire. The crop at present of these areas is exclusively the forage crop, and there is every reason why it should be gathered by grazing animals.

Senator FLETCHER. Are there now large tracts of reserved lands which the cattle rangers lease at a very low rental, and are the forest rangers allowed in effect to serve as herders?

Mr. PINCHOT. There are no areas leased, Senator. The distinction is this, and perhaps if you will allow me to state the grazing policy in a few words it will be the best answer to your question. When the national forests were created we found in each forest a certain num-

ber of stock, cattle, horses, and sheep which had been in the habit of using that range often for many years, and the people who owned those cattle were depending on that range for their prosperity and livelihood. The principle adopted in handling that matter was that the man who had the first right in time—that is, the man who was actually in possession and had been using the range—was recognized as having the best right to it, but that if that man was a large stock owner, then he must reduce his herds just as rapidly as the necessities of small men who came into the country required, and that the first man who was to be considered was always the small homesteader in the neighborhood of a forest; next, the man of larger property in the neighborhood of the forest, and third, the transient man, who did not live in the neighborhood and who brought his stock, generally sheep, from a distance. The rangers do not serve and have never served as herders in the sense you employ. They do ride the range to see that the individual who has been told to keep his stock in a particular place does keep it on that range. A man will not give exclusive control of a territory, as the laws there give a permit for so many head of stock, and assign a location upon which they can graze. Both the number of head of stock assigned to each man and the location upon which they can graze is determined in cooperation with the local stock-raising association, where there is such a one. In other words, we endeavor in this whole matter to work in cooperation with local interests and not as imposing regulations upon them from without.

Senator FLETCHER. Do the stockmen pay for the use of the ranges?

Mr. PINCHOT. They do.

Senator FLETCHER. What rate?

Mr. PINCHOT. They pay, as near as I can remember, from 25 to 50 cents a year for a cow and from 8 to 12 or 15 cents for a sheep.

Senator FLETCHER. The rangers are instructed to prevent trespassing?

Mr. PINCHOT. They are.

Senator FLETCHER. Are they required to know the brands of cattle?

Mr. PINCHOT. They are.

Senator FLETCHER. Is that not in effect to make them to some extent, at least, free herders?

Mr. PINCHOT. I think not. There is a provision in the law in this matter, Senator, that we are instructed by law to cooperate with the state authorities and with the national authorities in the prevention of disease among cattle and in the prevention of theft.

Senator FLETCHER. There is a sort of community of interests between the Forest Service and the cattlemen, as you have mentioned. So I would like to inquire whether that does not tend to prevent the homesteading and developing of the reserves?

Mr. PINCHOT. Decidedly not. The whole object, the point of view from which the national forests are administered is distinctly that of favoring homesteading, and the regulation I have just spoken of, in accordance with which the small man who comes in that country and wants to establish a home is given a range, although the larger owners were already in control of the range, is pretty good proof of it. In the old days a new man coming into a country already fully occupied by cattle or sheep, generally by large outfits, was under great difficulty. He was obliged to get his stock in there with the

suppression of the larger man or by fighting his way. Now, the fact that he comes in and attempts to establish a home we recognize at once and give him the right to range stock on land which may be already fully occupied by larger outfits, and we continually compel the large men to reduce their herds and make room for him, and that gave rise to very vigorous opposition from large outfits, public and private, until we made this statement of it, that we prefer to help the small man to make a living rather than to help the big man make a profit, and when that statement once was made the large outfits were obliged to cease their operation.

Senator FLETCHER. Now, with reference to the timber under the Forest Service, has there not been an increase in timber cutting over the time when the forest was still in the public domain?

Mr. PINCHOT. On that area very large.

Senator FLETCHER. Now, originally did you or not claim that the reserve timber would protect the people from lumber monopoly and monopoly prices?

Mr. PINCHOT. I have always claimed that the control of this timber by the Government prevented it from getting into the hands of great monopolies and would in the end be one of the strongest bulwarks against monopoly in timber prices.

Senator FLETCHER. Does not the Forest Service charge the same prices as the owners of private stumpage?

Mr. PINCHOT. We charge in many cases larger prices.

Senator FLETCHER. Has that increased the price of lumber in those regions?

Mr. PINCHOT. Not appreciably, so far as my opinion goes. It may have somewhat, but we have looked, Senator, not only to the immediate future, but to the provision of supplies for future years, and you recognize that the prices are bound to rise in this country until a tree when grown is worth as much on the stump as it costs to grow it. Very low prices of lumber mean great waste in the wood.

Senator FLETCHER. Is it not true that practically one-third of the area of the reserve is not forested?

Mr. PINCHOT. It is not forested at present.

Senator FLETCHER. Under the present system they are bound to remain classified as such for a long period of time, are they not?

Mr. PINCHOT. Classified how?

Senator FLETCHER. Classified as the forest.

Mr. PINCHOT. Yes, sir; they are lands which are more valuable except the land above the timber line—lands which are more valuable for forest purposes than for other purposes, which have been forested at one time or covered with brush; valuable for the protection of water supply and which will eventually be forested again. Very many of them are recovering themselves now by natural means.

Senator FLETCHER. Now, I have seen it stated, for instance, that the Gunnison Forest Reserve is being rapidly denuded of merchantable timber, and if the present rate of cutting new timber in the Colorado forest reserves keeps up they will soon be exhausted. What do you think about that?

Mr. PINCHOT. I think that is a mistake. We have been confronted, however, by this situation—where a forest in many regions—where the forests had already been badly injured by fire or cutting—while the best good of the forest, if considered alone, would have required

no cutting at all—yet, when we consider what the forest was for—that is, to promote the prosperity of the people in that neighborhood—and ascertained, as we did, that if we shut off the supply of timber altogether the result would be very serious in the neighborhood, we got up to the point where we believed that the cutting was taking from the forest about as much as grew and stopped there. In other words, if the forest in Colorado—certain of the forests of Colorado—are not rapidly increasing the stock of standing timber, no one of them, as far as I am aware, is having that stock reduced, the reproduction is keeping pace with the use.

Senator FLETCHER. Do you recall about how many acres of the total of some two hundred million acres of forest reserve has been given over to homesteads?

Mr. PINCHOT. Roughly, I should say, that of the applications which have come in, they have totaled about a few million acres and that the amount that has passed into private ownership under those applications is between three and four hundred thousand. Those are rough figures. More than half of the applications for homesteads have been followed by settlement.

Senator FLETCHER. About 500,000 acres out of the whole?

Mr. PINCHOT. That is a very rough figure.

Senator FLETCHER. I think the report of 1909 shows that there were 450,000 acres, as I recollect it.

Mr. PINCHOT. Something of that kind. I do not remember it exactly.

Senator FLETCHER. Now, do you not think, Mr. Pinchot, that the land and the natural resources are the basis of all possible industrial and commercial advancement and development of the West, and if that is true, how does the withdrawal of 200,000,000 acres of these lands affect those Western States?

Mr. PINCHOT. It affects them in this way: The resources of those 200,000,000 acres are not withdrawn from use in any way. The grazing land is being used for grazing; the timber land is open for manufacture; the mineral land is open to minerals; the agricultural land is being settled; the water power is being developed; and the resources of all those lands are being used, and for better use, while they are included in the national forest for the development of the West than they would be otherwise; and, in addition to that, they are so being used as to become permanent, so far as any of them can be permanent. A coal mine, of course, can not be.

Senator FLETCHER. In the Use Book it is stated that the land itself can be used for all purposes. The main thing is that the land, as well as what grows upon it, must be used for the purposes for which it is most available. On it may be built stores, hotels, residences, power plants, mills, and many other things. All these are advantageous to the national forest, because they help to get the fullest use out of the land and its resources. Railroads, wagon trails, etc., may be constructed whenever and wherever they are needed as long as they do no unnecessary damage to forest improvements of this kind and help to open up the country. That is what is wanted. That is your idea, as I understand it.

Mr. PINCHOT. Yes, sir.

Senator FLETCHER. Will that not involve inevitably, Mr. Pinchot, the Government in a very large business, that of grazing, that of

milling, and that of conducting power sites, and a sort of reclamation and irrigation, and all sorts of business?

Mr. PINCHOT. There is a very distinct line that is drawn there, and I am very glad that you asked that question. If the Government ran its own timber and developed its own power stations, then it would involve the Government in business, as you state. What the Government does is to allow the use of these resources by other people, who themselves are in business under regulations which protect the public interest.

Senator FLETCHER. But practically this vast area, a good deal larger than all the New England States put together, is not available to the homesteader, to the citizen, who wants to go and make his home there.

Mr. PINCHOT. You are mistaken about that, Senator.

Senator FLETCHER. Is it not true that the settler now is required to take a lease not transferable and terminable at the discretion of the Forest Service on such land as he chooses to enter upon?

Mr. PINCHOT. No, sir; the situation is this, that where a settler asks for land of agricultural character, which, as determined by the Secretary of Agriculture, is doubtful, and he wants to make a try at it and see if he can make it stick, make his living there, we give him in some cases a permit to occupy the land with the understanding that if he does make it stick, the time which he spends on the land on the permit will be counted in closing up his homestead; but the service has always held from the start that any land upon which citizens could make their homes, make a living by agriculture, ought to pass into private ownership; and we have realized from the start that the best protection that the national forests can possibly have is to have scattered all through them the homes of men who have an interest in their protection, as such settlers do.

Senator FLETCHER. Then, it is not the policy of the service to favor leasing of land in these surveys, but rather to favor their homesteading and acquire the title in these surveys by the homesteader?

Mr. PINCHOT. We do not favor the leasing of the lands at all where they are available for homestead purposes and can be taken up, except as I have just described. We do thoroughly believe that all agricultural land in every national forest ought to pass into private ownership as rapidly as possible, but not, Senator, on the plea that it is agricultural, to be taken up for timber and abandoned. I mean real homesteads.

Senator FLETCHER. I understand. Now, the laws, page 165 of the Use Book and page 255, under which the service is operating, seem to provide that a violation of any regulation made by the Secretary of Agriculture to regulate the occupancy and use of national forests to preserve the forests thereon from destruction, is a crime punishable by fine, etc., and that the rangers are instructed, as this law would seem to perhaps authorize, to make arrests without warrant. Do you consider that a proper and wise thing?

Mr. PINCHOT. I think that the rangers should have the right to arrest without warrant, as any peace officer does when he catches a man in flagrant breaking of the law, as I understand any peace officer does.

Senator FLETCHER. He is only authorized to arrest without warrant when the offense is being committed in his own presence and under his own observation. Is that the idea?

Mr. PINCHOT. There was a special law passed giving the forest officers the right to make arrests.

Senator FLETCHER. Does not this unlimited provision of making rules and regulations which have the force and effect of law, in your judgment, operate, or tend to operate, to encourage arbitrary action and discrimination of favoritism in the service?

Mr. PINCHOT. I think not. I see no way at the beginning how it would have been possible for a form of administration to have been built up except under some such provision of the law as that. At the time that law was passed there was not sufficient knowledge anywhere possessed by anyone to make a complete code for the Forest Service, and it was necessary to make experimental rules and regulations and apply them before it could be ascertained exactly what was right.

Senator FLETCHER. Now, what has been the policy of the service—and when I ask questions about what you have done, and so forth, I mean in an official way, of course, and to get at the operations of administration of the workings of the Forest Service—what has been your course in that view with reference to encouraging or opposing the surveys of those reserves for the purpose of eliminating agricultural, grazing, and mining lands?

Mr. PINCHOT. I ordered that after conference with the Secretary of Agriculture.

Mr. PINCHOT. After conference with the Secretary of Agriculture, in which I suggested the plan to him, I ordered the most complete survey for this purpose that has ever been made, and I have always favored the elimination of such lands, have made many recommendations to that end, and I believe such elimination will continue for a number of years to come, for the reason that the definition of what is agricultural land changes. As new methods of agriculture are devised, and as land not formerly valuable for agricultural purposes becomes valuable—in other words, for many years to come the reduction in area of the national forests will inevitably proceed.

Senator FLETCHER. Have you any idea, Mr. Pinchot, how long it would take to survey these lands and draw a line between the forest lands, agricultural lands, and mineral lands?

Mr. PINCHOT. No one could do it, Senator; the mineral lands can only be developed by exploration and prospecting, which must be done by the individual miner and which will continue for many years to come. Mineral deposits heretofore unsuspected will be discovered, and, as I have endeavored to make clear, what can not be used profitably for agricultural lands will continue. Lands which at first no one would take, later will be taken up, and in surveying by metes and bounds which, if such could be made, would be accurate this year as to what is agriculture and to what is not, five years from now would be found to be inaccurate.

Senator FLETCHER. Do you mean to say practically the Government proposes to keep these 200,000,000 acres of land for its own use and for revenue?

Mr. PINCHOT. No. I have just explained that as to those lands which are more valuable for forest purposes than for other purposes, the Government certainly ought to keep them. As to lands which are more valuable for agricultural or mineral purposes they will be passing out of the Government's hands a little at a time, possibly, as

the mineral lands are discovered and as the agricultural lands become valuable enough to be taken up.

Senator FLETCHER. You would not approve, then, of any survey being made now, topographical or otherwise, for the purpose of making these eliminations or making withdrawals?

Mr. PINCHOT. We had as thorough an examination as could be made in one field season made during last summer for that purpose, but no survey of that kind could, in the very nature of things, be final and definitive, even after it was made; constant modifications would afterwards be required.

Senator FLETCHER. Your plan would be to make the survey as the lands may be wanted from time to time?

Mr. PINCHOT. That is what we have been doing.

Senator FLETCHER. To encourage homesteading and the development of them in that way?

Mr. PINCHOT. We have constantly encouraged homesteading. As I said, we made a careful survey of the boundaries of the forest land, last summer, for the purpose of making any corrections that might be found, and it developed, curiously enough, Senator, as a result of that examination that the area which the settlers in that neighborhood wanted to have cut out, were very much smaller than those that they wanted to have put in.

Senator FLETCHER. Now, I understood you to say that one of the important things to be looked after by the service was that of fire protection?

Mr. PINCHOT. Yes, sir.

Senator FLETCHER. And yet it would seem to me that in the estimate for 1910 only some \$35,000 out of a total exceeding six million was considered desirable for fire protection.

Mr. PINCHOT. Every ranger, Senator, and the salary of every ranger, is service rendered and money spent for fire protection. The extra \$35,000, if I remember correctly, was an emergency fund to be held for fighting the large fires which could not be handled by the local force; but almost all the fire-fighting is done by local men. The point about fire-fighting is to get the men to the fire while the fire is young. Any system which means getting the men to the forest fires within two or three hours after it starts is apt to be successful. Any system that means waiting until the fire has become big enough to attract attention, and then rushing all the men to it, is both expensive and inefficient.

Senator FLETCHER. In regard to the reforestation, what has been your success in that part of the work?

Mr. PINCHOT. We have had considerable success in two lines: First, by protecting from fires areas that would naturally reforest themselves by the seed from the standing trees, and there has been a very large increase of tree-covered areas in the national forests from that source; consequently, so far as our appropriations would permit, we have planted young trees; and have been experimenting with the cheaper methods of reforestation, that is, by broadcast sowing, etc.

Senator FLETCHER. Up to this time that portion of the work has been largely experimental, has it not?

Mr. PINCHOT. It is perfectly right to say that we are not fairly started on the work of reforestation, because of the vast areas that

have been burned up. It is probably the largest piece of reforestation work that has ever been undertaken.

Senator FLETCHER. Is it not true that at the end of the fiscal year 1908 you had planted some 15,000 acres, which practically all failed?

Mr. PINCHOT. No; it did not practically all fail, Senator.

Senator FLETCHER. Do you remember what proportion failed by reason of the trees being eaten or bitten?

Mr. PINCHOT. Yes; a good deal of it failed, but the trees remaining will give us some kind of a stand—will give us a forest over very much the larger part of the 15,000 acres.

Senator FLETCHER. Do you think it is feasible or practicable to undertake to have forests on this area, about one-third of the entire reserve in the West, for instance?

Mr. PINCHOT. Except that part of it which is above the timber line, I think. The great majority of it will eventually be covered with trees.

Senator FLETCHER. Now, on March 1 or 2, 1903, the President made orders withdrawing lands from the national forests in the States of Colorado, Iowa, Montana, Oregon, Washington, and Wyoming amounting to 16,675,631 acres; do you remember that?

Mr. PINCHOT. Yes, sir. You do not mean Iowa, Senator; you mean Idaho, I think.

Senator FLETCHER. Idaho; yes. These States mentioned in the act of March, 1907, prohibiting any future withdrawals in those certain States, six, I think.

Mr. PINCHOT. Yes.

Senator FLETCHER. Six States, I believe; Wyoming, and Idaho, etc. Do you remember whether these orders, Mr. Pinchot, were completely carried out as to the descriptions of the land, and in all other respects prior to March 3, 1907, or were they just blanket orders?

Mr. PINCHOT. Oh, no; they were not blanket orders. I made that recommendation to the President, and took the proclamations to him. We had been studying these western lands for a number of years, making field examinations of them as to just exactly what ought to be included; we had both topographic and what we called "type" maps, that is, showing the character of the surface and its coloring, and the recommendation which I then made to him was based on a number of years of very hard study, both in the office and in the field.

Senator FLETCHER. These withdrawals, then, were regularly made and a proclamation covering these forests was issued with the description of the land?

Mr. PINCHOT. There was.

Senator FLETCHER. And all included and complete in these orders prior to the act of March 3, 1907?

Mr. PINCHOT. There was a case in Colorado, the details of which I do not remember, but I think I recall, that after the first proclamation on that subject was referred to the President, it was withdrawn and a modification of it was made. But the proclamations, as the President signed then, so far as I know, were entirely complete and lawful.

Senator FLETCHER. Would you say whether or not there is a duplication of the work of the Interior Department and the Forest Bureau under the present system?

Mr. PINCHOT. As to what, Senator?

Senator FLETCHER. As to anything; any of the work.

Mr. PINCHOT. There is a threatened duplication between the Forest Service and the Indian Office in case the Indian Office establishes a forest service of its own in the handling of its land. There has been a certain amount of duplication as between the special agents of the Land Office and the forest rangers in a duplicate examination of claims within the national forests; but whether or not it has been a serious duplication I do not know, because I am not sufficiently familiar with the operations of the special agents.

Senator FLETCHER. Can you see how that might be avoided?

Mr. PINCHOT. It could be avoided; I suppose it was avoided under Secretary Garfield. I believe it was completely avoided, by full cooperation between the Land Office and the Forest Service.

Senator FLETCHER. What is your view, Mr. Pinchot, as to what department ought to have charge of the water-power development in the national forest?

Mr. PINCHOT. I think there can be no question whatever that the department which has charge of the forests themselves ought to have charge of the water power in the forests.

Senator FLETCHER. How about the reservoirs for irrigation?

Mr. PINCHOT. The granting of the right of any kind in the national forests which does not involve passage of the title to the land ought to be, and, as I understand it, now is, in charge of the Secretary of Agriculture.

Senator FLETCHER. What is the present policy as to the revenues to be derived and whether or not they are to be held and administered in perpetuity for the profit to the Federal Government?

Mr. PINCHOT. As to what ought to be done with the revenue?

Senator FLETCHER. Yes.

Mr. PINCHOT. The revenues now, under the law, go into the general fund of the Treasury. The revenue from the national forest, you speak of?

Senator FLETCHER. Yes.

Senator FLINT. A percentage of them is paid to the State, is it not?

Mr. PINCHOT. That is another disposition, Senator, which is made after they have gone to the Treasury.

Senator FLINT. But the act provides—

Mr. PINCHOT. The act provides that there shall be 25 per cent of the revenue from all the national forests, for all purposes, paid to the State in which they lie for the use of the counties included within the national forests, for their school fund and road fund.

Senator FLETCHER. Mr. Pinchot, in looking at the appropriations for the Forest Service for some years back it will seem as if they had continually grown, and we observe that the—for instance, beginning with the Fifty-first Congress, \$47,690, down to the total estimate for the fiscal year ending 1910, \$6,071,500; and we observe that the areas have been continually enlarged.

Mr. PINCHOT. I do not recognize that last figure, Senator.

Senator FLETCHER. The total estimate for the year ending June 30, 1910, is \$6,071,500.

Mr. PINCHOT. No; the total estimate for the national forests for the year ending June 30, 1910, was about \$4,600,000.

Senator FLETCHER. I expect you are mistaken, Mr. Pinchot.

The CHAIRMAN. You mean the appropriation or the estimate?

Senator FLETCHER. The estimate I speak of; I do not know about the appropriation.

Mr. PINCHOT. Oh, I beg your pardon.

Senator FLETCHER. I have the estimates here before me. For 1908 they were \$3,759,086; for the fiscal year ending June 30, 1909, \$3,958,616.97; and for the fiscal year ending June 30, 1910, \$6,071,500.

Mr. PINCHOT. That must be right; I do not recollect it that way.

Senator FLETCHER. These appear to be the estimates. Now, is it the policy of the bureau to continue this enlargement, or increase of areas, to increase the appropriation, and this increase of business operations in the Forestry Bureau?

Mr. PINCHOT. There must inevitably be an increase both in area and expenditure. These forests when the Forest Service took charge of them in 1905 were practically not used at all; their resources were substantially locked up and very few people got any good from them. Now the increase in the use of the forests each year is enormous over the preceding year. The importance of protecting the forests from fire and administering them will increase as the population of the forests increases, and inevitably the cost of doing that will rise. We have now reached the point where we spend in the neighborhood of 2 cents per acre per annum on the national forests. Forests well handled in foreign countries have spent upon them every year from 50 to 500 times as much as that, and unquestionably the expense by this Government upon its forests, which expense will rest mainly and be justified mainly by the use of the forests made by the citizens, will increase also.

Senator FLETCHER. I notice the same statement in document 1271, "Report of the Forest Service," that the gross receipts for the year ending June 30, 1908, were \$1,842,281, and it is estimated that the receipts for the fiscal year 1909 will be not less than \$2,500,000. Do you know how that turned out?

Mr. PINCHOT. It turned out that the receipts for the second of the two fiscal years you have mentioned were about the same as the previous year. The hard times, while they did not strike us as hard as they did a good many other people, still they struck us.

Senator FLETCHER. So that there is a difference at present of something like \$5,000,000 between the expenses and receipts for the operation of that bureau?

Mr. PINCHOT. Senator, you are speaking of estimates and not of the actual appropriation. The appropriation for the fiscal year ending June 30, 1910, was, as I said, about \$4,600,000.

The CHAIRMAN. Will you allow me to interrupt you there, Senator?

Senator FLETCHER. Certainly, sir.

The CHAIRMAN. What were the receipts for that year?

Mr. PINCHOT. The receipts for that year—for the present year, that is, the year that is now going on—will reach, if the expectation is realized, between two and a half and three million dollars.

The CHAIRMAN. Well, perhaps for the year before you have got the exact figures—for 1909?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. Now, what was the appropriation for that year and what were the receipts?

Mr. PINCHOT. I think the appropriation was \$3,900,000. Mr. Price tells me it was \$3,700,000 and the receipts, \$1,800,000.

The CHAIRMAN. A difference of nearly two millions?

Mr. PINCHOT. Yes, sir. On the other hand, Senator, we have saved in one year from fire, in comparison with the ratio of loss on private lands, more than ten times that difference. We give away free timber to small settlers every year to the number of about 30,000 people. It costs money to handle that matter and see that it is properly looked after. The fire protection and protection against trespass of other kinds is an expense, and the fees charged to the stock owners is considerably less than those charged on the outside. The reason for that is that these men were actually in possession of the range when the national forests were created, and the policy established was not to charge them the full amount, but to charge them approximately what the administration of the range business costs. Those parts of the Forest Service work which bring in revenue pay for themselves, approximately. Those parts which bring in no revenue explain the difference between the receipts and the expenditures.

The CHAIRMAN. Senator Fletcher, may I ask one or two more questions?

Senator FLETCHER. Certainly; I have finished, Mr. Chairman. I have nothing further I care to go into.

The CHAIRMAN. The receipts for the fiscal year 1909 were about \$1,700,000, or almost that?

Mr. PINCHOT. One million eight hundred thousand.

The CHAIRMAN. What were the main sources of these receipts?

Mr. PINCHOT. Roughly, they were divided between the grazing fee, about \$1,000,000, and the timber sales, although there were some other items.

The CHAIRMAN. What other items?

Mr. PINCHOT. What is called timber settlements. When a man pays for timber which is destroyed in a right of way which is granted and there are certain amounts of fines for timber cut in trespass and so on—minor matters of that kind.

The CHAIRMAN. A million from grazing and about \$700,000—

Mr. PINCHOT. About \$800,000 from timber sales.

The CHAIRMAN. From timber, or nearly that, leaving out those—now that grazing, you say, was for the purpose of protecting the forests against fires, was it?

Mr. PINCHOT. The grazing, Senator—I do not understand.

The CHAIRMAN. Yes; I understood you to say that the grazing was for the purpose of keeping down the grass and weeds among the struggling trees, so as to prevent the dead vegetation from catching fire.

Mr. PINCHOT. No, Senator, you must have misunderstood me. The object of the grazing, while it does in some cases have the effect of reducing the danger from fire, the main object of allowing grazing in a national forest is to prevent the waste of a very large amount of forage. The grass grows very high and it can only be harvested by grazing animals; that is, to prevent the waste. Its first object is to promote the welfare of regions in which they lie.

The CHAIRMAN. Do you lease any water power within the forest reserve?

Mr. PINCHOT. We have given permits.

The CHAIRMAN. Permits—free permits or for pay?

Mr. PINCHOT. Permits for pay.

The CHAIRMAN. How long a time?

Mr. PINCHOT. Fifty years.

The CHAIRMAN. What has been the rate of pay usually?

Mr. PINCHOT. The rate of pay is based upon the production of electricity at the wheel and is measured in thousands of kilowatt hours. We begin at 2 cents per kilowatt hour and then run up year by year to 4, 6, 8, and 10, and when we have reached 10, at the end of five years, these permits prescribe that the rate of increase during each succeeding period of either five or ten years, I have forgotten which—five years it is—the increase shall not exceed the highest rate charged in the preceding five years. Mr. Price tells me that it shall not exceed $2\frac{1}{2}$ cents.

The CHAIRMAN. Do you erect any sawmills on the forest reservations?

Mr. PINCHOT. We do not erect sawmills, Senator. They have erected some on the Indian reservations—

The CHAIRMAN. You do not erect them. Do you erect any sawmills on the Indian reservations?

Mr. PINCHOT. Never have erected them.

The CHAIRMAN. Do you erect any sawmills on the Indian reservations?

Mr. PINCHOT. We have erected for the Indians a very complete sawmill at Neopit on the Menominee Reservation under the cooperative agreement.

The CHAIRMAN. What was the cost of that sawmill?

Mr. PINCHOT. That I can not give you offhand.

The CHAIRMAN. Now, with regard to the timber you sell, you sell that by the stumpage?

Mr. PINCHOT. We sell it by the thousand feet on the stump.

The CHAIRMAN. Do you sell it at public or private sale?

Mr. PINCHOT. The sales of over \$100 are made at public sale; sales for less than \$100 made at not less than the appraised value at private sale.

The CHAIRMAN. You appraise the timber first?

Mr. PINCHOT. We appraise it first in both cases.

The CHAIRMAN. Before selling it in any form?

Mr. PINCHOT. Yes, sir; before selling it in any form.

The CHAIRMAN. Then the sales of less than a hundred dollars you sell at the appraised value?

Mr. PINCHOT. Yes, sir; limited to the appraised value.

The CHAIRMAN. And at public sale you sell to the highest bidder?

Mr. PINCHOT. Yes, at not less than the appraised value.

The CHAIRMAN. Now out of the 200,000,000 acres of land in forest reserve, you say there has been an aggregate of about 500,000 applicants for homesteads?

Mr. PINCHOT. Yes, roughly speaking, Senator; I do not remember exactly.

The CHAIRMAN. Yes, I understand; I do not expect you to be exact; and out of that provision you think between three and four hundred thousand have been granted?

Mr. PINCHOT. Something like that; more than half have been granted.

The CHAIRMAN. Two hundred thousand, say?

Mr. PINCHOT. No; I say more than half.

The CHAIRMAN. Of the five hundred thousand?

Mr. PINCHOT. Of all the applicants who applied for homestead in the national forest.

The CHAIRMAN. Does that number represent the number of homestead settlers in the forest reservations?

Mr. PINCHOT. Oh no. That merely represents the men who have made application for homestead settlements in the national forests.

The CHAIRMAN. Since the forest reserves were established?

Mr. PINCHOT. No, since the law of June 27, 1906, a very large number in excess of that.

The CHAIRMAN. Were there any homestead settlers on these reservations when you created them?

Mr. PINCHOT. In the Black Hills of South Dakota there was a considerable number of settlers who were not in fact homestead settlers, not technically homestead settlers, because they had taken up their land, practically all of them, as placer claims.

The CHAIRMAN. Aside from that on the other reservations were there not a large number of homestead settlers?

Mr. PINCHOT. There were in some places a considerable number, but still on the whole the settlement was very sparse.

The CHAIRMAN. Do you not surround these settlers with the forest reserve?

Mr. PINCHOT. They were surrounded by the forest reserve.

The CHAIRMAN. Is it not difficult for these scattered homestead settlers in the forest reserves, owing to the fact that they are surrounded by these stations, to establish schools and churches and get the facilities that they could in a country that could be settled up?

Mr. PINCHOT. There are two answers to that; one is, that the agricultural land in that neighborhood is still open to entry—under act of June 11, 1906; and the other answer is, that the best friends we have in the West are those very men of whom you speak; they are the most stanch and enthusiastic supporters of the Forest Service.

The CHAIRMAN. Is it not a fact, these men can not take homesteads there within the forest reservations there, until the Forest Bureau permits them or decides that they shall have the right to take the homestead?

Mr. PINCHOT. They can not take the homestead under the act of June 11 until an examination has been made and the Secretary of Agriculture has decided that the land is agricultural; that is true.

The CHAIRMAN. That is pretty slow process. You refer it to your rangers and they take their time in reporting on it.

Mr. PINCHOT. It is a very much more rapid process than it was at first. At first the number of applicants was so very large in comparison with our facilities for handling the work under the appropriations which Congress gave us it went slowly. Now it is reasonably prompt.

The CHAIRMAN. If you will allow me to interrupt you there. I have had numerous letters from settlers who claim that it has taken from six months to a year, after making application, before they could get back information or anything definite.

Mr. PINCHOT. In the beginning it did when we were overwhelmed with something like 5,000 applications right off without having had a chance to get ready to handle it. Now, the time is very much less, and I believe substantially that this is the case, that substantially the applications made at a season when the country can be examined go through within about three months.

The CHAIRMAN. Now, your force in the field, out on the forest reservations, they consist of supervisors and rangers, do they not?

Mr. PINCHOT. Mainly.

The CHAIRMAN. How many, approximately?

Mr. PINCHOT. About two thousand.

The CHAIRMAN. Two thousand? And how many have you in the office force here?

Mr. PINCHOT. I should say something like three hundred.

The CHAIRMAN. What is the total amount of the employees in your service?

Mr. PINCHOT. But there must be added to that the force in the six district offices so that at its summer strength when the forest guards have been added—

The CHAIRMAN. What is the maximum strength of it, I mean?

Mr. PINCHOT. The whole force is about 3,000.

The CHAIRMAN. Three thousand. And what is the pay of these people that are outside of the office here, I mean?

Mr. PINCHOT. The pay of a forest ranger runs from—the pay of a forest guard, first, is \$75 a month and in some cases less, in some cases \$60, or was in some cases \$60. I think that has been stopped. The pay of a forest ranger is from \$900 to \$1,400 a year; the pay of a deputy supervisor—this is a rough guess—runs from that to \$1,800; the pay of a forest supervisor is from \$1,800 to \$2,400 and \$2,500.

The CHAIRMAN. How many supervisors have you?

Mr. PINCHOT. About 130—130 or 150, I have forgotten.

The CHAIRMAN. They get from \$1,800 to \$2,000 or \$2,200?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. And how many deputy supervisors?

Mr. PINCHOT. I should say from 75 to 80; that is a guess.

The CHAIRMAN. What are the duties of a forest guard as distinguished from a ranger?

Mr. PINCHOT. The forest guard is a temporary employee, employed during the season when fires are dangerous and occupied principally in patrol duty.

The CHAIRMAN. Now, the rangers; they are employed by the year?

Mr. PINCHOT. Employed by the year.

The CHAIRMAN. Employed permanently?

Mr. PINCHOT. Employed permanently.

The CHAIRMAN. They are in the classified service?

Mr. PINCHOT. They are in the classified service.

The CHAIRMAN. But the guards are not?

Mr. PINCHOT. No. The rangers are mostly men who have been guards and passed an examination and been promoted.

The CHAIRMAN. At these ranger stations, Mr. Pinchot, spoken of, cabins or house are built for the rangers, are they not?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. At the government expense?

Mr. PINCHOT. Yes, sir.

The CHAIRMAN. Have they the use of these houses free?

Mr. PINCHOT. They do. These houses, however, are log cabins in the majority of cases.

The CHAIRMAN. What is the average amount of land at these ranger stations?

Mr. PINCHOT. About, as I remember, 150 acres on an average.

The CHAIRMAN. One hundred and fifty acres?

Senator FLETCHER. Are these outside of the reserve?

Mr. PINCHOT. Some outside and some inside, Senator; the majority of them inside.

The CHAIRMAN. Now, Mr. Pinchot, as I understood you in your testimony before, in order to save certain power sites that you could not save in any other way, you reserved them ostensibly for ranger stations?

Mr. PINCHOT. We did.

The CHAIRMAN. Under that color?

Mr. PINCHOT. We did.

The CHAIRMAN. Then afterward you abandoned that policy and reserved them in fact for power sites?

Mr. PINCHOT. No.

The CHAIRMAN. What did you do?

Mr. PINCHOT. May I explain the situation?

The CHAIRMAN. Yes.

Mr. PINCHOT. What we did was, when we discovered these power sites were being taken up under the mining land laws and otherwise without proper authority, and we thought there was danger of these power sites passing out of the public hands under the laws other than those intended for that purpose—

The CHAIRMAN. But is not every part of the forest reserve open to exploration and discovery and entry under the mining laws?

Mr. PINCHOT. Yes, sir. But then it does not contemplate taking up power sites under the mining laws.

The CHAIRMAN. Does not that cover the ranger stations?

Mr. PINCHOT. Yes, sir; but not under the decisions of Secretary Garfield and Secretary Hitchcock. May I go on and continue the description of what we did, Senator?

The CHAIRMAN. Yes.

Mr. PINCHOT. I conferred with Secretary Garfield and Secretary Wilson and President Roosevelt, and with a perfect understanding among all the public officers responsible for that work, and without concealment, the ranger station form of withdrawal was used for a purpose which we afterwards discovered could have been accomplished under another form of withdrawal. When that was discovered the ranger stations were withdrawn as power sites definitely, and since that time, which was March 2, 1909, I believe, no ranger stations have been asked for—no power sites have been asked for as ranger stations.

The CHAIRMAN. Do you not know, Mr. Pinchot, as a matter of law, that the waterways in the different States of the Union, aside from the purposes of navigation, that the use of these waters is controlled by the States, and the States hold them in trust for the people in those States, and they are not, outside of the purposes of navigation, the property of the Federal Government?

Mr. PINCHOT. I do not know, Senator, as to that. I do know, however, that this is a question that is very much mooted as between lawyers. It is a question on which I have not made any very thorough investigation. I recall very well that there was a difference of opinion between us, Senator, as to the rights of the Federal Government to protect itself against the acquisition of power sites on navigable streams by private interests.

The CHAIRMAN. Now, when the land has passed out of the hands of the Federal Government and is in private ownership and a dam is built across that land—on a portion of a stream that is not navigable, in fact—what property has the Federal Government in that water, in that stream?

Mr. PINCHOT. I am not aware, Senator, that the Federal Government has ever asserted any right of property under such circumstances.

The CHAIRMAN. What right has it to charge royalty for the use of that water?

Mr. PINCHOT. I am not aware that they ever tried to charge a royalty.

The CHAIRMAN. Was not the theory of President Roosevelt that it could be done?

Mr. PINCHOT. Not that I am aware of.

The CHAIRMAN. When he sent a letter to the Committee on Commerce and stated that he would veto any bill for the license to erect a water power over any stream unless it contained, among other things, a requirement for compensation for the use of the water?

Mr. PINCHOT. That was specifically limited to navigable streams, and your question specifically excluded navigable streams.

The CHAIRMAN. No; it was not in his letter. You are mistaken about that, Mr. Pinchot.

Mr. GRAHAM. Produce the letter.

The CHAIRMAN. I would like to ask you another question, but it would be too personal.

Mr. PINCHOT. I should be glad to answer.

Mr. MADISON. Go ahead. He waives it, and we would like to hear it.

The CHAIRMAN. I would like to know, if it is not objectionable, and you need not answer it unless you have a mind to, if you induced President Roosevelt to veto these water-power bills?

Mr. PINCHOT. Whether I induced him or not I do not know; I certainly advised him to.

The CHAIRMAN. I might go on further. Did you write the messages vetoing that bill or compose them?

Mr. PINCHOT. I think that is a question which—

The CHAIRMAN. You need not answer it if it is not agreeable.

Mr. PINCHOT. I think that is a question which falls under the prohibition of the committee against repeating conversations with the President.

Mr. JAMES. I would suggest, if President Roosevelt is to be investigated, that he should be given a chance to be present.

The CHAIRMAN. I wanted the committee to know the source from which—

Mr. GRAHAM. He will probably be back before we get through. when he will be able to speak for himself.

The CHAIRMAN. I have no further questions.

Senator FLINT. You said in answer to a question of Senator Fletcher about one-third of the land in the forest reserve was not timbered, and an inference was drawn from that by Senator Fletcher, as I understood it, that the balance of this land was agricultural land. I would like to have you explain to the committee just what the other land consists of; what class of land it is.

Mr. PINCHOT. Almost none of it is agricultural land; very little of it is agricultural land. It consists of three classes, mainly of land above the timber line, and deforested slopes mainly deforested by fire, and of high parks in the mountains; and another class which was probably deforested originally by fire; and of brush land.

Senator FLINT. In addition to that, is there not some land which has been withdrawn for the purpose of protecting water supplies and conserving the waters?

Mr. PINCHOT. There is; but practically none of that is agricultural land of any character.

Senator FLINT. Another question that has been asked in the matter of application for homestead in reference to the survey of the land, the inference being that it was necessary to survey the land within the forest reserve to determine whether it was agricultural land. I want to ask you, as a matter of fact, if the person seeking a home will not find out the land and make the application himself without having the land surveyed?

Mr. PINCHOT. You are perfectly right. A search of that kind will be very much more minute and will discover very much more agricultural land than any regular survey possibly could.

Mr. MADISON. Is there attempt made to keep the people out of the forests?

Mr. PINCHOT. Absolutely none; never has been.

Mr. MADISON. Any person can go there for the purpose of prospecting for minerals or for the purpose of searching for agricultural land?

Mr. PINCHOT. With absolute freedom.

Senator FLINT. What portion of that land within the forest reservation has been surveyed?

Mr. PINCHOT. A very small portion, indeed, Senator; I do not know how much—you mean surveyed by the public-land system?

Senator FLINT. Yes.

Mr. PINCHOT. A very small portion; I do not know how much.

Senator FLINT. Mention has been made of the houses of the rangers, and there has been some controversy, and in order that it may be clear in the record I would like to have you describe just what those houses are, just what they consist of—the number of rooms, the manner in which they are built, etc.?

Mr. PINCHOT. They generally consist of one or two rooms and sometimes with a garret and sometimes not. We are absolutely limited by the law to \$500 in value for any building of any kind; and these cabins average decidedly less than that.

Senator FLINT. Where are those houses located with regard to being near to habitation and with regard to being in the best location for administration?

Mr. PINCHOT. They are located entirely with reference to administration of the national forest.

Senator FLINT. And many of them are remote from habitation?

Mr. PINCHOT. Very remote, indeed; clear back in the mountains many of them.

Senator FLETCHER. Let me ask a question right there, Senator. In case you should find an improvement close to the reservation which a ranger would like very well to take possession of at a ranger station, do you claim any such right, Mr. Pinchot, as a right to seize the land and the improvements that exist upon it because the man who occupies that is a so-called "squatter" and has no title from the Government?

Mr. PINCHOT. There have been cases where men, who had no title, who had squatted on government land, and who have abandoned their lands afterwards; have gone away, and have their improvement which they have had to abandon taken up by the ranger stations; but where a man is living on the land and trying to make a livelihood there we respect his rights and do the best we can to see that he gets title to the land.

Senator FLETCHER. You do not claim a prior right to such a would-be settler?

Mr. PINCHOT. No, sir; we want the settler in; where a settler has possession we respect his possession.

Mr. MADISON. There is more or less conflict between certain people who live near the forest reservation and the Forest Service?

Mr. PINCHOT. There is.

Mr. MADISON. Which often grows very bitter?

Mr. PINCHOT. Yes, sir; it has been at times very bitter.

Mr. MADISON. Now, what is the occasion for that, as you understand it?

Mr. PINCHOT. The bitterest conflict that we have had at all I think was by reason of restricting the right to use the range on the part of large cattlemen, and especially large sheep men.

Mr. MADISON. Your policy of favoring the small owner as against the big cattle and sheep men has invoked this hostility?

Mr. PINCHOT. The men who are in the best position to make a noise about their grievances, the big men, have been the ones from whom we have had the most opposition.

Mr. MADISON. Who occupied that grazing land before the Government came in and made a national reserve out of it?

Mr. PINCHOT. In the majority of cases I can say it was occupied by large outfits of cattlemen and sheep men.

Mr. MADISON. What opportunities have the small ranch men and the small sheep men against these gentlemen?

Mr. PINCHOT. Where they propose to keep him out, if they are very considerable areas, he has a very small chance, in that they not only control the land itself, but the organizations of the counties and even the State, and they make it pretty hot for the small settler who wants to come in on their range land.

Mr. MADISON. Do you know of any other reason for this hostility between the Forest Service and certain other classes?

Mr. PINCHOT. Yes, sir. We have a great deal of opposition from the fake mineral claimants—men who want to sell stock on a piece of land which they claim was a mine and which was not a mine. We have examined the land, as we are required to do, which was done by an expert miner, and discovered that it was not a mine, and could not be patented, and we have from them very bitter opposition at times.

Another cause is, where we have examined land held for homestead but in reality valuable timber land. We have found in a very large percentage of cases in certain timber regions where the homesteader never intended to make a home on the land at all; he wanted to use the timber, and when an examination on the ground revealed that he had not complied with the law and could not get the timber, he has naturally been very bitter.

Mr. MADISON. Well, has there been some feeling between some classes of people in the States in which the forest reservations are located and the Forest Service, growing out of the feeling that the forest reserve men have kept them from entering and developing large areas of land which they thought—the people thought—ought to be put into private ownership and become a portion of the privately owned property in the State, to assist in the development?

Mr. PINCHOT. There is—

Mr. MADISON. What about that?

Mr. PINCHOT. That arose largely from misrepresentation, to the effect that land put into a national forest was thereby shut out from development, and that the resources could not be used. Now, the men who live in the neighborhood of the forests have ascertained that that is not true, that their interests are better protected than they were before that filing—and have suffered a complete, or practically a complete, change, especially in the last couple of years, and during last summer I was amazed continually at the immense body of public sentiment there was throughout the West in favor of the forest policy.

Mr. MADISON. How is that in Colorado?

Mr. PINCHOT. Perhaps the best illustration that I can give you of Colorado is to say that two or three years ago a very bitter conflict arose between the Colorado Cattle and Horse Growers' Association. It was so bitter that it led to the splitting up of the association, and the friends of the service went off and created an association of their own. This year there has been a reuniting of the two halves of the older association on the basis that the enemies of conservation are to let it alone.

Mr. MADISON. How about Wyoming?

Mr. PINCHOT. Wyoming—we still have a good deal of opposition from the sheep men.

Mr. MADISON. Now, by the sheep men—what do you mean, the small farmers or the others?

Mr. PINCHOT. In Wyoming there are a very few small sheep owners. In Utah there are very many small sheep owners. In Wyoming the sheep business is mainly in large interests.

Mr. MADISON. How is the feeling in Utah?

Mr. PINCHOT. I think it is not an overstatement to say that the feeling is practically throughout the State in favor of the service.

Mr. MADISON. But in Wyoming it is altogether the other way.

Mr. PINCHOT. In Wyoming, Colorado, and Idaho—they are the States in which we have had of late years the most trouble.

Mr. MADISON. What three did you say?

Mr. PINCHOT. Colorado, Wyoming, and Idaho.

Mr. JAMES. Is there not in Wyoming a sheep-raisers' association, an incorporated association?

Mr. PINCHOT. They have several associations. I believe there is one with headquarters at Rock Springs—a very large one.

Mr. JAMES. So it is not an individual one that you speak of?

Mr. PINCHOT. There are very many large individual owners of sheep in Wyoming.

Mr. MADISON. Is the difficulty you have in Idaho on account of the hostility of the large sheep owners?

Mr. PINCHOT. Mainly. The Idaho Wool Growers' Association there for a time was bitterly hostile, under the presidency of Governor Gooding, and afterwards it was otherwise.

Mr. MADISON. Now as to the matter of water-power sites, has there not been considerable hostility between the Forest Service and some classes of citizens on account of the feeling that the withdrawal of lands for water-power sites tended to retard the development of the State?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. Now, what do you say about that; what is the fact—what effect does it have on the development of the State?

Mr. PINCHOT. As a matter of fact, as far as I am able to see, the development has not been retarded, and what has been prevented was the acquisition of these sites in perpetuity—in fee simple for mere private interests—and as long as opposition is founded on having accomplished that I have no apology to make for it whatever.

Mr. MADISON. Was it the policy or the theory, rather, of the bureaus that the Government owned the water because it owned the land over which the water flowed?

Mr. PINCHOT. No, sir; but what it did in the case of the power-site people was to charge them for the use of the land valuable for the development of the power.

Mr. MADISON. That is, the land that dominates or commands the water is absolutely essential, in other words, to the use of the water for the purposes of power?

Mr. PINCHOT. Precisely.

Mr. MADISON. Then as to the land itself, you discriminate there; you charge really for the use of the land rather than the use of the water?

Mr. PINCHOT. We have never charged anybody a cent for the use of any water.

Mr. MADISON. Now, in the Western States—the Rocky Mountain States—they have what is known as the prior appropriation as to water. It is written into the constitution of almost every Western State, as you understand it?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. That is, all waters, whether running or otherwise, are to be devoted to beneficial uses, the first of which is the ordinary domestic use, and then it may be appropriated for the purpose of irrigation, and that as to the use of water for irrigation purposes he who is first in time is first in right?

Mr. PINCHOT. Yes, sir.

Mr. MADISON. Very well. Was there anything in any of the claims of the bureau, or any of its policies, that tended to conflict with this constitutional provision?

Mr. PINCHOT. Nothing whatever, to my knowledge.

Mr. MADISON. That is all. I beg your pardon for taking so much of your time and the time of the committee.

Senator FLINT. I simply want to ask this one question. Senator Fletcher has asked you with reference to the proclamation of the President, placing some 16,000,000 acres of that land within the Forest Service at one time.

Mr. PINCHOT. Yes, sir.

Senator FLINT. Why was it made at that particular time?

Mr. PINCHOT. It was made at that particular time because a provision had been suggested for the agricultural bill, which bill had not yet passed, prohibiting the creation by the Executive of additional national forests in six of the Northwestern States, and it was known at that time that if the bill did pass with that provision in it the locations of those forests would be prevented.

Senator FLINT. But in any event the President could increase the Forest Service in those particular States by proclamation?

Mr. PINCHOT. Precisely.

Mr. MADISON. What President did that?

Mr. PINCHOT. President Roosevelt did that.

Senator FLETCHER. That is the act of March 3, 1907, approved at 9.43 a. m., I suppose you refer to?

Mr. PINCHOT. I refer to that act; the proclamations were not signed at that time.

Senator FLETCHER. I mean the act was approved at that time, and it contains this statement:

Provided further, That hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created, within the limits of the States of Washington, Oregon, Idaho, Montana, Colorado, or Wyoming, except by act of Congress.

That bill was pending, and before it became a law these surveys were made adding to the reserved areas in those States some 16,000,000 acres of land.

Mr. PINCHOT. That is correct.

The CHAIRMAN. Mr. Vertrees, I am informed that Mr. Pinchot is obliged to leave in a few minutes, and if you desire to ask him questions I suppose you can ask him those subsequently. He will return.

Mr. VERTREES. I do not desire to ask him anything, Mr. Chairman.

Mr. PINCHOT. I do not desire to interfere with the committee.

The CHAIRMAN. Very well; you may be excused.

Mr. Pinchot was thereupon temporarily excused.

Mr. PEPPER. Mr. Chairman, subject to the pleasure of the committee, I desire to call Mr. James R. Garfield, whom I think can enlighten us on several matters. In the first place, on the development of this policy of withdrawal of power sites during his term as Secretary of the Interior; secondly, upon certain matters connected with the coal legislation which has been under discussion; and, thirdly, I think Mr. Brandeis wishes to ask him some questions specifically with respect to his connection with the Alaska coal cases.

The CHAIRMAN. Very well.

TESTIMONY OF JAMES RUDOLPH GARFIELD.

JAMES RUDOLPH GARFIELD, having been duly sworn, testified as follows:

Mr. PEPPER. Mr. Garfield, will you please state your full name?

Mr. GARFIELD. James Rudolph Garfield.

Mr. PEPPER. And your present residence?

Mr. GARFIELD. Cleveland, Ohio, is my office residence.

Mr. PEPPER. What is your occupation?

Mr. GARFIELD. Attorney at law.

Mr. PEPPER. Am I right in understanding that prior to March 4, 1907, you were in the government service?

Mr. GARFIELD. I was Commissioner of Corporations.

Mr. PEPPER. And during that time was your attention devoted at all to the subject of waterways or the matter of general questions of the policy of the Government with regard thereto?

Mr. GARFIELD. It was: I had instituted an inquiry into the general subject of waterways.

Mr. PEPPER. Do you happen to recall whether you were led to do so by the receipt of a letter from Mr. F. H. Newell, chief engineer at that time of the Reclamation Service, bearing date of December 14, 1906?

Mr. GARFIELD. I was.

Mr. PEPPER. Is that the letter which I now hand you?

Mr. GARFIELD. It is.

Mr. PEPPER. Was there included in it a little memorandum of his on the subject of water-power site possibilities?

Mr. GARFIELD. There was.

Mr. PEPPER. State whether or not that, in point of fact, was, so far as you know, the starting point for the consideration of what has since become the water-power policy.

Mr. GARFIELD. As far as I was connected with it, yes, sir.

Mr. PEPPER. I desire to offer these papers in evidence.

The CHAIRMAN. They are admitted.

(The papers are as follows:)

DEPARTMENT OF THE INTERIOR,
UNITED STATES RECLAMATION SERVICE,
Washington, D. C., December 14, 1906.

HON. JAMES R. GARFIELD,
Department of Commerce and Labor, Washington, D. C.

MY DEAR MR. GARFIELD: Inclosed herewith is a rough memorandum regarding water power. I am sending it to you at this time in the hope of talking it over a little more in detail in the near future.

Very truly, yours,

F. H. NEWELL,
Chief Engineer.

CONSERVATION OF WATER POWERS.

The Government has control of certain water powers through three distinct sources:

First. Those developed under the terms of the river and harbor bill in connection with navigation. These water powers are exceedingly valuable and are gradually being leased, under special legislation and by some form of contract with the War Department. There should be some definite policy in line with the handling of water powers by other branches of the Government.

Second. Those in the forest reserves. Here the water powers are of great value to the future development of the West. Unfortunately, many of the water powers of this part of the country have already been given away, under existing legislation. An attempt is being made, systematically, to withdraw them from the market in order to enhance the value of fuel and to make a monopoly of the water power available for electrical transmission.

Third. The water powers developed, in whole or part, in connection with the Reclamation Service or held under the terms of the reclamation act. Leases are permitted for ten-year periods, but the legislation governing the matter is inadequate.

It is obvious that some general policy should be agreed upon in the near future in order to conserve for the use of the people the valuable water powers which are embraced under these three headings.

DECEMBER 15, 1906.

DEAR Mr. NEWELL: I have your letter of the 14th, with the memorandum regarding water power. I wish you would have prepared for me a statement of exactly what power has been developed under the river and harbor bills. I want to talk with you within the next few days about this whole subject.

Very truly, yours,

JAMES RUDOLPH GARFIELD.

Mr. F. H. NEWELL,

Chief Engineer, United States Reclamation Service, Washington, D. C.

Mr. PEPPER. What, if anything, did you do in the interval between the receipt of the letter to which you have referred and March 4, 1907?

Mr. GARFIELD. There was instituted in the Bureau of Corporations an investigation, as I have stated, regarding the waterways of the United States. The extent of that investigation has been outlined by me, and we were making preparations in the bureau for the information to be derived from the field, and from my investigations throughout the States on the conditions affecting waterways, the laws, and permits or rights that had been granted thereunder.

Mr. PEPPER. What official position did you occupy subsequent to March 4, 1907?

Mr. GARFIELD. I became Secretary of the Interior on March 5, 1907.

Mr. PEPPER. As such Secretary, what, if anything, did you do in the way of studying the public domain?

Mr. GARFIELD. I began the investigation from the records of the department prior to the time I became Secretary. I investigated the reports from the various bureaus; had conferences with the officers who had charge of the bureaus which had to do with the public domain, and prepared myself as well as possible for the study of the condition of the department itself and its records upon the problems with which I would have to deal as Secretary.

Mr. PEPPER. Did those include the problems of reclamation and the work of which the Geological Survey has charge, and the matter of the Indian reservations?

Mr. GARFIELD. It did. All these were within the jurisdiction of the several bureaus of the department.

Mr. PEPPER. Directing your attention to the summer of 1907—that is, your first summer in office as Secretary of the Interior—sketch briefly what steps you took in prosecution of your investigations of these matters, or any of them, and I refer particularly to water power.

Mr. GARFIELD. I spent the most of that summer, between two and three months, traveling through the West visiting the various reclamation projects in the Indian reservations, the Land Office, and, wherever possible, the Geological Survey field parties, or officers thereof, having with me at various points the officers in charge of the various projects on Indian reservations, and with me a great part of the time were Mr. Newell, the director of the Reclamation Service, and Mr. Davis, the chief engineer.

Mr. PEPPER. You are giving their present titles?

Mr. GARFIELD. Yes, sir; they held the same positions at that time.

Mr. PEPPER. Did you, with them, examine the reclamation projects adjacent to the Yellowstone River during that summer?

Mr. GARFIELD. Yes, sir; I went with them over that entire project; the project at Billings, in Montana, was opened, and thereafter I went down the Yellowstone River from Glendive to the Missouri

River. Prior to visiting that project, I had been over the line of the Denver and Rio Grande in Colorado, going from Denver to Salt Lake, discussing with the gentlemen in Utah the possibilities of reclamation there, and we had at that time in mind the study of all the problems that had to do with the development of water for irrigation, both under the gravity system and under the pumping system, where power was required. In each project I had my attention called to the development of water and the possibility of the extension of the use of water over larger areas than that which we were then attempting to irrigate.

Mr. PEPPER. Was it in July of that year that you made an inspection of the Jefferson, Madison, etc., rivers—those Missouri rivers and tributaries?

Mr. GARFIELD. I did not make a personal investigation of the conditions surrounding the project that had been contemplated for those rivers. There was what was known as the Madison project, and on reaching Helena I discussed with the men who were locally interested in it, and with our reclamation engineers, the problem of whether or not the matters of projects, or I believe a reservoir in the Madison River and the development of water power which could ultimately be used for pumping on the Missouri River—we discussed that very fully.

Mr. PEPPER. And how about Arizona?

Mr. GARFIELD. In Arizona the Salt River project was one where we had developed power to a very great extent. That is one of the largest reservoirs, and one of the highest dams. There had been installed a power plant, and the power from that was transmitted to the town of Mesa, some 60 or 70 miles distant, and there used for pumping the water on the lower levels and the development of very much larger acreage than could be reached by the gravity system.

Mr. PEPPER. Was there any discussion at or about this time of the development of water power for conservation otherwise than in connection with reclamation projects?

Mr. GARFIELD. Not very much, then. At that time we were considering the use of water almost entirely for reclamation projects, although as I went through the West I had pointed out to me by our engineers and by the various local engineers—the railway engineers—projects for the development of water power that were being initiated or constructed by private enterprise.

Mr. PEPPER. Well, coming to the autumn of 1907, or the winter of 1907-8, state whether or not the matter of conservation of power sites, as such, came up for consideration; and if so, how?

Mr. GARFIELD. Yes; that came up in connection with suggestions that had been made personally to me by those who were interested in the inland waterway development, and as a result of that certain suggestion we were considering the very broad question of the use of water for all purposes, and as a result of that study or outline in our minds, and in discussion, the possibilities of the use of water not only for irrigation but for the development of power, and the relation the Federal Government should occupy toward that development and that regulation, and the legalities that were within its jurisdiction.

Mr. PEPPER. And, as I understood it, involved the consideration of the redemption of reservoir sites and the construction of dams for storage, etc.

Mr. GARFIELD. It did. The problem included the use of water from the headwaters of all the watersheds down to the navigable stretches. We were studying it as a complete problem. The problem had been divided as between the navigable streams and the powers and rights of the Federal Government over those, and we were now seeking to find out what we might do toward the preservation of the water powers of the public domain that were above the navigable stretches of the river.

Mr. PEPPER. Well, Mr. Pinchot in his testimony told us of the rise and development of what he described as the policy of conservation, as related particularly to this matter of water power. Is it the fact that during the period to which my question relates that there was a growth or development of a policy dealing with that general subject?

Mr. GARFIELD. There was during that winter, and the question had been considered by the President in connection with the Rainy River Lake construction, as I recall it; and then in the conference of governors in the spring of 1908, or prior to that time, there had been outlined a general programme for the discussion of the conference of the governors; and at or about that same time, or else just prior to the meeting of the governors, the message relative to the James River dam had been sent by the President, and I had given a great deal of attention to the question that had arisen in connection with that message.

Mr. PEPPER. Is my recollection correct that at or about this time public attention was directed to the use of water-power sites by private concerns that were making a very important use of them—the railways and the Niagara Falls proposition, etc.?

Mr. GARFIELD. Yes, sir; that had been considered very carefully by those of us in the Federal Government. The Commissioner of Corporations had, in following out the investigation that he had inaugurated, extended it so that it was covering the question of the extent or control that the greater corporations had over the water powers of the country, and we had furnished the President information which was reported to Congress at the same time as the veto, as I recall it, of the James River dam bill.

Mr. PEPPER. Now, at or about this time did you take up the question of how, in point of law, you could have the right of way under the act of 1901 for reservoir power sites and transmission lines?

Mr. GARFIELD. That I had under consideration, and I wished to know what had been done under the terms of that act; what grants had been made, what permits issued, what use had been made of those permits, and I directed that during the spring and summer of 1908 there be made a very careful examination at the various land districts of all the operations under the permits granted in accordance with the terms of the act of February 15, 1901.

Mr. PEPPER. What was the general purpose of that examination; what did you hope to accomplish by it when the reports came in?

Mr. GARFIELD. I intended to revoke or cancel all those permits that either had been misused or not used at all, thus relieving the portion of the public domain from the burden of those permits.

Mr. PEPPER. And what, in point of fact, was done in that regard?

Mr. GARFIELD. The reports were made to the officers of the Land Office and finally action was taken by the Land Office in accordance

with the terms of the permits, and I made report on the results of that investigation in my annual report in December, 1908, as I recall it.

Mr. PEPPER. Now, coming specifically to the matter of power sites, there is in the record a letter of June 2, 1908, page 1156 of the testimony, purporting to have been written by you to the Director of the Reclamation Service. Without taking the time to read it, can you just state in a moment what that letter was and what significance it had?

Mr. GARFIELD. It was written for the purpose of starting the inquiry that I desired made in the field by the engineers of the Reclamation Service regarding the available sites that might be used for the development of power either in connection with the existing or proposed reclamation projects, or that might be retained by the Federal Government and devoted to the uses that were covered by the act of February 15, 1901.

Mr. PEPPER. And did you cause, simultaneously or subsequently, an investigation to be begun leading to the preparation of a brief in the legalities that were involved?

Mr. GARFIELD. Yes, sir; we had at that time under consideration the question of the power of the Executive to withdraw land and take action necessary for the protection of the public domain against the illegal acquisition that had arisen earlier in connection with the coal withdrawals, and I directed that during that summer a very careful legal investigation be made so that I might be advised as to what the power of the Executive was in connection with such protection of the public domain.

Mr. PEPPER. And during the spring of the year 1908, did you take any trip or make any further field examination in connection with the observation of water powers?

Mr. GARFIELD. I did. That summer I spent in the Hawaiian Islands and the West, visiting the Hawaiian Islands and all the various irrigation projects there, finding out how they used water and what they had done toward its beneficial use, and had later Mr. Newell go there and make a detailed engineering examination of the water conditions in the islands to the end that he might determine whether additional work could be done, either in the way of storage or the development of water-power pumping. Then on the mainland I visited the balance of the projects that I had not visited in the preceding year in Idaho, for example, Minandoka, which had there a large dam which they were using also for the development of power for the pumping of water on the lower level.

Mr. PEPPER. And at the end of your field investigation you came back to Washington, as I recall it. Did you then begin to formulate a policy for dealing with those different sites which you had examined?

Mr. GARFIELD. I did. After conference with the law officers of the department, and with the officers of the Reclamation Service, I determined upon the general policy that I should adopt, subject to the approval of the President, of withdrawals of land that might be reported upon as available for power sites.

Mr. PEPPER. What you have been last describing followed that address of yours on July 25, 1908, made to the engineers?

Mr. GARFIELD. Yes, sir; at that time I had met all the field engineers of the Reclamation Service at one of the projects at Mitchell, Nebr., and in furtherance of the letter I had written Mr. Newell, I

explained to them personally what I desired done, namely, that they should make such field examinations as they could of the available power sites within their respective districts, and they brought those facts to the director for his consideration.

Mr. PEPPER. And then came the formulation of a course of action to be pursued in the way you described a moment ago?

Mr. GARFIELD. Yes, sir.

Mr. PEPPER. Now, on page 86 of Senate Document 248, the committee had before them the lists or tables exhibiting various withdrawals made at dates subsequent to December 1, 1908. I hand you those lists, directing your attention to table 2 at the bottom of that page, and ask you to note that that table purports to be a series of withdrawals made for reclamation purposes. Can you first tell the committee generally what those withdrawals were, and then I will ask you more specifically about them?

Mr. GARFIELD. Those withdrawals were made upon the recommendation of the Reclamation Service engineers, Mr. Newell, the director, and Mr. Davis, the engineer, for the purpose of withdrawing all power sites that were either available for the present reclamation projects, or were within such distance of either the present projects or future projects as to make them available for public water upon such lands, and I had directed that in making those withdrawals under the terms of the reclamation act to include, as far as possible, any available power site that was within a reasonable transmission distance of either an existing project or land that ultimately might be brought under a reclamation project.

Mr. PEPPER. So far as your action was concerned, may I ask whether you recommended or approved withdrawal under the reclamation act excepting in the way that you have described.

Mr. GARFIELD. I did not. I desired to use the reclamation act as far as it was possible to use it, because it had this distinct advantage over a general withdrawal. If the reclamation act withdrawal could be used, or, rather, if we could withdraw under the reclamation act, it gave the Government the opportunity to use that power site or the reservoir site for the development of any of its reclamation projects, in years to come, whereas under the general supervisory power of the Secretary we would not then use the power sites withdrawn under that power of withdrawal, but they would be devoted to the development by private parties in accordance with the terms of the act of 1901.

Mr. PEPPER. Those withdrawals made under the reclamation act had as their purpose the use of the power by the Government in connection with these projects, present or prospective?

Mr. GARFIELD. They had.

Mr. PEPPER. Whereas the other withdrawals, the general power-site withdrawals, were of what character?

Mr. GARFIELD. They were of a character that could be used for the development of power by private companies, and under the existing conditions many of these power sites would be acquired by private companies or private interests, not under the act of 1901, but under either the mineral-entry act, or any other act that they might find, or, if possible, it was for the purpose of putting those lands in such shape by classification that we could prevent their acquisition

under any act and require their use in accordance with the act which Congress had provided.

The CHAIRMAN. Which act do you refer to? The act of 1891?

Mr. GARFIELD. 1901. I may have misstated the date.

The CHAIRMAN. The reclamation act?

Mr. GARFIELD. The reclamation act was in 1902, but the power act to which I refer was February 15, 1901, which has to do with the rights of ways, reservoirs, and transmission lines.

Senator FLINT. I understood you, Mr. Garfield, to say that there were two withdrawals, one under the reclamation act; what was the other?

Mr. GARFIELD. Under the supervisory power of the executive.

Mr. PEPPER. Will you just state for the benefit of the committee just how you think the secretary obtained that power?

Mr. GARFIELD. That power has existed since the organization of the Government; it is inherent in the Executive in his duty as custodian of public property, and it has been exercised from time to time by the President or the executive officers under him for a variety of public purposes and has always been sustained by the Supreme Court of the United States.

Mr. GRAHAM. If you recall any specific instances, Mr. Garfield—if you do, will you please give them for reference?

Mr. GARFIELD. I could give that simply by leaving with the committee the brief that was prepared before the Public Lands Committee on this subject.

Mr. GRAHAM. Personally, I shall be obliged for a copy of it.

Mr. GARFIELD. Do you desire me to go into that in detail?

Mr. GRAHAM. Oh, no; I mean that I will be obliged for a copy of the brief.

Mr. GARFIELD. And there is likewise a report recently made by the Committee on Public Lands of the Senate which gives in full the powers that have been exercised by the different executives and the decisions of the court which have sustained the exercise of that power.

Mr. GRAHAM. That is what I refer to.

Mr. PEPPER. I have in my hands what seems to be a report of the Secretary of the Interior for the fiscal year ending June 30, 1908. I notice on pages 10 and 11 a summary statement of what you have just referred to, and a citation of a number of cases; what is that?

Mr. GARFIELD. That is the summary of the brief that was prepared at the Department of the Interior in the summer and fall of 1908, and upon which I based my conclusion that the President had the right to exercise that power of withdrawal.

Mr. PEPPER. Mr. Garfield, in your understanding, what—

Mr. JAMES. Had you not better let that be put in the record without being read?

Mr. PEPPER. I did not mean to read it. Mr. Chairman, on page 9 of the document just referred to, there is a section beginning "Conservation of natural resources," which runs down to a section on page 11.

The CHAIRMAN. Is that the report of the Assistant Attorney-General of the department?

Mr. GARFIELD. That is my report, as Secretary of the Interior, for 1908.

The CHAIRMAN. Will you be kind enough to mark the paragraph you want and it will go into the record.

(The quotation from the report of the Secretary of the Interior is as follows:)

CONSERVATION OF NATURAL RESOURCES.

The movement for the conservation of our natural resources shows that the people of the United States have fully awakened to the vital necessity of caring for what is left of the public domain. Conservation means not only preservation of our resources, but, as well, their wise and immediate use and the prevention of their misuse, whether by way of waste or monopolistic and speculative control.

The public domain has been placed by Congress under the Interior Department, and ample authority is vested in the Chief Executive and the Secretary of the Department to take such action as is necessary to care for the public domain. During many years the Executive has, in the exercise of this general authority, withdrawn at different times and for various purposes areas of the public domain and for the time being prevented those areas from being entered for private use.

Full power under the Constitution was vested in the executive branch of the Government, and the extent to which that power may be exercised is governed wholly by the discretion of the Executive, unless any specific act has been prohibited either by the Constitution or by legislation.

In the exercise of this power it is the duty of the Executive to take such action as will protect the interests of all the people of the United States in their property rights, and, if the occasion requires and the facts warrant, it is the duty of the Executive to prevent the acquisition of the public domain by private interests if such acquisition be detrimental to the public welfare.

If there be no power to affirmatively provide for the ultimate use or disposition of the public domain in accordance with the needs of the public welfare, it is the duty of the Executive to temporarily prevent its acquisition until Congress may have an opportunity to consider the question and adopt appropriate legislation.

This stewardship duty of the Executive is most concretely manifest in the care of the specific property known as the public lands and their resources. From the earliest days the Executive has found it necessary in the public interest to take action concerning the public lands by withdrawing areas from entry. There was no specific provision of law for many of those withdrawals, and yet they were made unhesitatingly by the Executive as steward and were approved by Congress in acts granting land for the purpose for which it was withdrawn. These were purely the acts of stewards farsighted enough to foresee and protect the interests of their principal, the people of the United States.

President Roosevelt's withdrawal in 1906 of more than 60,000,000 acres of land supposed to contain coal, in order that it might be classified and saved for its best use, and the recent withdrawal of phosphate lands for the benefit of our farms, are notable examples of the exercise of this power in protecting the public use of our resources.

The courts have upheld the power of the Executive to withdraw public lands, not only for public use, but also for the public welfare, when, in the judgment of the Executive the public good demands such action. The following are some of these cases: *Grisar v. McDowell* (6 Wall., 364); *Wilcox v. Jackson* (13 Pet., 498); *Walcott v. Des Moines Co.* (5 Wall., 681); *Hamblin v. Lands Co.* (147 U. S., 531); *No. Pac. Ry. v. Muesser-Sauntry Co.* (168 U. S., 607); *Spencer v. McDougal* (159 U. S., 62); *U. S. v. Payne* (8 Fed. Rep., 883); *U. S. v. Tichenor* (12 Fed. Rep., 415); *No. Lumber Co. v. O'Brien* (139 Fed. Rep., 614); *Russian Packing Co. v. U. S.* (39 Ct. Cls., 460); *U. S. v. Blendauer* (122 Fed. Rep., 703); *Florida Town Imp. Co. v. Bigalsky* (33 So. Rep., 450); *O'Connor v. Gertgens* (89 N. W., 866); *Hewitt v. Schultz* (76 N. W., 230).

The Secretary of the Interior, as the representative of the Executive in the care of the public lands and their resources, often needs to take steps neither prohibited nor specifically provided for by law to prevent some great harm or to gain some great good for all the people. However, withdrawals of and protective measures for public land, if made or taken, will be for one purpose only, namely, conservation of the public lands and their resources for their highest uses in the interests of the people. It would be a grave dereliction of duty if the Executive failed to act promptly in preventing public injury by the misuse of the public domain and its resources.

Mr. PEPPER. Mr. Garfield, in your understanding of the subject, is there any law among the public-land laws under which the land whose best use is in connection with power sites can properly be entered?

Mr. GARFIELD. There is not.

Mr. PEPPER. In other words, these withdrawals were for what purpose?

Mr. GARFIELD. These withdrawals were to prevent those water-power sites and reservoir sites from being acquired illegally under the laws which were not applicable to that character of land.

Mr. PEPPER. On the theory that the best use of these lands was what?

Mr. GARFIELD. The development of power or the use for reservoir or transmission lines, all of those subjects that were covered by the act of 1901.

Mr. PEPPER. And what you have last been discussing is to be distinguished clearly from the withdrawals under the reclamation act for the purpose of acquiring the site for the use, present or prospective, of the United States?

Mr. GARFIELD. Quite a different proposition, and in connection with that, Mr. Pepper, I desire to say here, as I have seen it stated at times that there was some subterfuge in connection with this matter, and I simply state that there was of course nothing of that character. I did not deal in the dark with those matters or with anything else, and they were thoroughly understood both by the President and by my own department and by the Representatives in Congress and of the power interests outside, who had made application for rights of way or were interested in the general subject of development of power.

Mr. PEPPER. Are you speaking now particularly of the withdrawals under the reclamation act?

Mr. GARFIELD. Under supervisory power.

Mr. PEPPER. Under the supervisory power, how about the suggestion that has been made, because I think it has been made, that the reclamation withdrawals were in the nature of a subterfuge; that is, that they were really not intended to have any relation with reclamation projects, present or prospective?

Mr. GARFIELD. I can not say how there could have been any real basis for any such belief as that, for the reasons I have stated, because they were clearly within the terms of the reclamation act and might be used for reclamation purposes. It was simply a question of engineering skill to determine how far the power might be transmitted reasonably and at a cost that would not make it prohibitive for use on these lands.

Mr. PEPPER. Some little before the withdrawals began to which you have been referring, there were the other withdrawals that have been referred to here as the "ranger withdrawals;" that is, withdrawals in ranger-station form of sites inside the forests—

The CHAIRMAN. No; outside, you mean. Inside the forest there was no withdrawal, Mr. Pepper.

Mr. PEPPER. I will revise my question. I think I am right, Mr. Chairman. I do not pretend to any great learning in this subject, but I understand that the land in the forests are subject to mineral entry and that the purposes of these withdrawals within the forests were to reserve the land from mineral entry. As I was about to say, these withdrawals that had recently taken place we learned within the limits of national forests with a view to the conserving of the key positions in water-power possibilities—now, what were those?

Mr. GARFIELD. That question, as I recall it, came up during the summer of 1908, and Mr. Pinchot, who was at the head of the Forest Service, and I discussed that matter with Secretary Wilson and later with the President. When the matter first came up I had not reached a conclusion I have stated regarding the full power of the Executive to withdraw for all purposes, and the ranger-station withdrawals had been made from time to time. As I advised Mr. Pinchot and the other gentlemen to whom I have referred, I thought we could continue to withdraw in the ranger-station matter those points within national forests that might be recommended. Later, as I got further into the subject and became convinced that the Executive had full powers to make withdrawals for public uses of the character I have indicated, I so advised the President, Secretary Wilson, and Mr. Pinchot, and before I left the office they presented me all the forest ranger-station points that had been withdrawn for the protection of forest sites, and I changed the form of withdrawal that had theretofore been used into the form of withdrawal which appears in the letter which I see has been presented here, I think of March 2, 1909.

Mr. PEPPER. So then, if I understand it rightly, there were three classes of withdrawals; the withdrawal in terms of ranger stations, but really to conserve power sites, which dropped out of practical consideration after March 2, 1909, because you dealt with them first as you have last described?

Mr. GARFIELD. Yes.

Mr. PEPPER. Second, place withdrawals under the reclamation act of 1902, which first were made, as I understand, to conserve power sites for the present or prospective use of the United States in connection with reclamation projects?

Mr. GARFIELD. Yes, sir.

Mr. PEPPER. The third, withdrawals of power sites under the supervisory power, for future disposition to parties other than the Government, for development, under whatever might by Congress be determined to be proper terms.

Mr. GARFIELD. Yes; or in accordance with the existing act of 1901.

Mr. PEPPER. And that is the right-of-way act?

Mr. GARFIELD. That is known generally as the right-of-way act.

Mr. PEPPER. And it was under that act that revocable permits are granted for the use of power, etc.?

Mr. GARFIELD. It is; yes, sir.

Mr. PEPPER. Now, turn again to page 86 of the Senate document; can you give to the committee an idea of the method of withdrawal that was pursued? I mean by method, to refer particularly to the way in which the withdrawal of land was made.

Mr. GARFIELD. The reports that had been made by the engineers were taken up by Mr. Newell and Mr. Davis and collated. They then, from their personal knowledge of the conditions in the field and from a study of the maps available, prepared for my inspection the outlines of these maps of the various withdrawn areas. For example, they would lay out on a certain river, by drawing the lines on the map, the areas that they considered available for power sites, designating whether they were for power sites that might be used in connection with irrigation projects or otherwise. And Mr. Davis brought to my office samples of these maps and indicated that they could not be withdrawn in the ordinary form of description by the

section lines, and I directed that they make the withdrawals in accordance with that general policy, and that in each instance they make them ample, so that they should cover all land that might possibly be needed, it being my belief that there was no danger in making them too large, but that there was danger to the public interest in making them too small, because we had had from our experience in the reclamation withdrawals the difficulty of acquiring land that was omitted, because the moment a project was undertaken and any lands were omitted private settlers came in and attempted to acquire possession, and if thereafter we needed the land in the project we, of course, had to pay for it, and usually paid more than we ought to.

Mr. PEPPER. When you say private settlers came in, you mean came into the neighborhood of the land withdrawn?

Mr. GARFIELD. Yes, sir; therefore I said that it was very much better for the protection of the public interest to make in each instance these withdrawals ample.

Mr. PEPPER. For the detailed and specific information as to what was done in connection with each of these withdrawals must I turn to the officers of the Reclamation Service, or have you the information that will enable you to meet my inquiry?

Mr. GARFIELD. I could not speak as minutely as Mr. Davis or Mr. Newell. They could give you the exact conditions of these various maps.

Mr. PEPPER. Now, may I add further in making what I should correctly describe as these checkerboard withdrawals, or sections, whether it was the intention to eliminate from the description of the land withdrawn such portion of it as had been entered, or was that excluded by operation of law from the withdrawal?

Mr. GARFIELD. I considered it excluded by operation of the law, and yet some of the withdrawals were definitely stated, but as to some of the land we excepted it did not seem to me that there was any material difference whether that exception was stated in the withdrawals or not—that valid existing entries should be protected.

Mr. PEPPER. I notice among the documents in the record that deal with this subject that sometimes the phrase is used "temporary withdrawals," or that lands are withdrawn temporarily or are to await the action of Congress. Is that not the necessary condition of these general supervisory withdrawals whether or not so stated?

Mr. GARFIELD. Of course any withdrawal of that kind is temporary. The Secretary of the Interior, acting under the President, can not dispose of any section of the public domain; he can not dispose of an acre; but he may withhold the illegal acquisition, and temporarily may withdraw those lands, and is not limited in time, and Congress may then determine how these lands must be disposed of, or may be disposed of.

Mr. PEPPER. I notice in some of those documents stress seems to be laid on the proposition that the form of withdrawal expresses it to have been made in aid of legislation by Congress. Is there any way in which withdrawals can aid legislation except by holding the subject-matter until Congress acts?

Mr. GARFIELD. I know of no other way, whether you say so or not. The form of withdrawal to my mind was not a material thing. The proposition was to prevent illegal acquisition, and the language which described the withdrawal was of no material difference.

Mr. PEPPER. You have said that you desired to make withdrawals ample, or broad enough for protective purposes, both in the reclamation cases and in the others. Can you state a little more fully just what you mean—broad enough for what?

Mr. GARFIELD. For example, the mere withdrawal of a valuable dam site may not at all protect the public interests, because in the use of that dam site it may be necessary to flood the acres above it; it may be necessary to use the entire valley above it, running from flood to flood, in the withdrawal of a reservoir site. It may not by any means be sufficient to protect the public interests if you take the mere land upon which the reservoir is to be constructed—if you desired to communicate between the reservoir site and the irrigable area—if it be a reclamation project, and therefore you need land for transmission lines, perhaps conduits, and in the same way with land that may ultimately be used by private parties for the development of power. They need more than the available portion that can be devoted to the particular thing which they have in mind; as, for example, the construction of a dam, or the putting in of a water wheel. Therefore the loss of these rivers upon which power can be developed wherever there is an actual field—it is always possible to secure the power by the erection of a dam, the flooding back of the water, and therefore, in some instances I wished the entire stretch of the river withdrawn, so that we could later, by our field examination, determine what would be the most effective way to protect the public interests.

Mr. PEPPER. You speak of the subsequent field examination. Do I understand you to say that it was part of your original policy, and in large withdrawals, to pare down the withdrawals on the basis of such subsequent examination?

Mr. GARFIELD. It always had been the policy of the department, and I pursued it and intended to carry it out, so that we would not hold any land unnecessarily under any form of withdrawal.

Mr. PEPPER. In point of fact, are you able to say whether such parts of those large withdrawals as did not actually consist of entered lands, or of lands necessary for power sites, were lands desirable for homestead entries?

Mr. GARFIELD. I think very few of them, indeed; very few. They were nearly all in areas that were not capable of sustaining a man in his efforts to acquire a homestead. There were many of them lands that would ultimately come under irrigation projects, but there were possibly some of them that were grazing lands, or possibly dry-farming lands, but a very great proportion of those withdrawals covered lands that were not capable of being used as homestead entries.

Mr. PEPPER. I suppose there are some exceptions as to them, as for instance, in some of those Utah withdrawals.

Mr. GARFIELD. Without doubt there are exceptions in all of them.

Mr. PEPPER. Well, from your experience and investigations of this matter, would it have been protective of the interests of the United States in the one case, or protective of the future use of the water-power sites in the other, to make a hard and fast rule to withdraw, we will say, a quarter of a mile on each side of a river, or some ironbound rule of that sort?

Mr. GARFIELD. I think not, and I think one of the mistakes that I made in some of our withdrawals were that they were not made large enough and broad enough.

Mr. PEPPER. When the end of your term of office came, Mr. Garfield, last March, had the work which you were then engaged upon in this matter of the protection of power sites reached a conclusion?

Mr. GARFIELD. By no means. We had taken the first step toward the elaboration of the general policy for the permanent use of these power sites upon the whole of the public domain, and it was my intention to continue right along in the study of those conditions—that the service would continue along in the study of those conditions, and increase these withdrawals wherever they found it possible.

Mr. PEPPER. And would you say whether or not it is an accurate statement of the situation to say that you have been telling the story of a policy that grew and developed, as it was understood at the time which your testimony began, until you went out of office?

Mr. GARFIELD. Yes, sir; that is quite true. It was a proposition that was of course in the minds of all of us, and from month to month, as new facts came before us, we became more clear in our minds as to what could be done, and at the same time we had many conferences with the representatives of the power companies who were seeking to acquire these rights on the public domain, and to those companies or their representatives I announced very plainly what the policy of the Government was; that it was my intention in granting permits thereafter on the public domain and over those sites that either had been or were to be withdrawn to grant them in accordance with permits that would be approximately like those permits that had theretofore been granted under the forest reserves in the Agricultural Department; that there should be harmony of action between the two departments, and that the law applied equally well outside as inside the national forest.

Senator FLETCHER. May I ask you there what these power companies were intending to do and to accomplish? What was their particular purpose?

Mr. GARFIELD. They were desirous of obtaining the valuable power sites in localities at which they could develop power for commercial use and transfer, or transmit that power to the area of settlement within a reasonable distance of the plant where the power was developed, and throughout the West there has been a very rapid development of the electric power. The railroads, the transcontinental railroads, were acquiring along their lines all the available power sites for the purpose of changing from coal or oil to electricity. The greater power companies in the different States had been acquiring the power sites upon the watersheds, which were controlled for the purpose of obtaining if possible a monopoly of the power resources of those particular districts.

The CHAIRMAN. That had been done, Mr. Garfield, under the act of 1901, had it not?

Mr. GARFIELD. Some under the act of 1901; most of it on that that they had acquired otherwise. Many of those lands had been acquired under laws which really did not permit them to so acquire them. Others had been purchased properly, and it was my desire to thereafter prevent any further acquisition of this land under laws that were not applicable to a necessity, but thereafter these power permits should be subject to regulations which the President had adopted, and which were then being enforced in the national forests, and those regulations included the essential things of a perpetuity

of the grant itself or regulations which would have been of benefit to the consuming public, and a charge to be paid to the Federal Government for whatever property it leased or granted under the permit, and those were the essential conditions which I intended to impose on all permits that were granted in accordance with the terms of that act thereafter.

Mr. GRAHAM. You were going to mention instances when interrupted. I would like to hear all these instances of monopolistic use of water power which you were reciting. You mentioned the use of water power by railroads and private interests for transmitting power to near-by settlements.

Mr. GARFIELD. For transmitting power and light to the various cities which were within the radius that could be reached, and for manufacturing purposes, and for private irrigation purposes, and for pumping on those lands.

Mr. GRAHAM. Pumping by electric power?

Mr. GARFIELD. Pumping by electric power. That has developed very rapidly under the irrigation projects throughout the West.

Mr. OLMSTED. Do you mean, Mr. Garfield, that these private corporations tried to secure a monopoly of one water site, or of a number of water-power sites?

Mr. GARFIELD. They had attempted to acquire a number of water sites within the same general watersheds, or within the area of transmission. Of course, the use of a power site is of necessity a monopoly at that particular point, as but one company can use it, and therefore it is a question of the regulation of that monopoly. If it is not regulated, if it is unrestrained, then it may become a very troublesome monopoly.

Mr. OLMSTED. Does the same concern want to obtain a monopoly of one or several water sites?

Mr. GARFIELD. The latter was supposed to be the case in a number of instances there, by the same concern or by allied interests. It seemed to be the first step toward the unification of the power interests, exactly as we were going through that kind of unification and harmony of action with the railroad interests, and the tendency was all in that direction, of centralization of power interests in the hands of a few great companies.

Mr. OLMSTED. You spoke of withdrawals for protection from illegal acquisition of the power sites, if I correctly understood you?

Mr. GARFIELD. Yes, sir.

Mr. OLMSTED. Could not that have been prevented by withholding the patents?

Mr. GARFIELD. I beg your pardon.

Mr. OLMSTED. Could not illegal acquisition of power sites be prevented by withholding patents for them?

Mr. GARFIELD. It can be done by giving notice beforehand; and this, I think, is in effect the withholding of patents before the application is made. In other words, it is saying that these certain lands can not be acquired except for the purpose of developing power, and therefore giving notice beforehand and preventing entrymen from attempting to acquire them.

Mr. MADISON. By "illegal acquisition" of these sites, do you mean the acquisition of the land along the borders of the stream by entrymen who did not in fact take the land in good faith for homestead

purposes, but took the land for the purpose of conveying it to some water-power company?

Mr. GARFIELD. That is an exact statement of the fact.

Mr. McCALL. Do you understand that there could be an illegal acquisition that would be effective?

Mr. GARFIELD. No; for this reason, Mr. McCall: If the law provides that power sites, reservoir sites, and transmission lines shall be issued only by permit under the act of 1901, I take it that it would be an illegal acquisition for an entryman to acquire those lands under the homestead act or under a mining law. In other words, Congress provided specified ways for the disposition and use of the public domain, and if an entryman seeks to use or acquire the public domain for the purposes not intended by the act under which he obtained title or permit I consider it an illegal use.

Mr. McCALL. Do you think he would have a good title if he obtained it by subterfuge?

Mr. GARFIELD. He would not have a good title to it, but if title had passed into the hands of an innocent third party the third party would have good title to it.

Mr. MADISON. But an action might be brought against the original purchaser of the land.

Mr. GARFIELD. There is the difficulty that presents itself to the cancellation of patents that have been issued in that fashion.

Mr. McCALL. That is, it would be legal if the land had passed into the hands of an innocent third party?

Mr. GARFIELD. Yes.

Mr. PEPPER. I suppose, Mr. Garfield, that the statute of limitations is applicable also?

Mr. GARFIELD. Yes, sir.

Mr. PEPPER. And that is six years, is it not, Mr. Finney?

Mr. FINNEY. Yes, sir.

Mr. PEPPER. Mr. Garfield, before leaving this subject of withdrawals that were made during your term of office I want to call your attention to the fact that it is alleged in one or two of the documents of the record that the maps upon which the withdrawals were made were inaccurate, and that in one conspicuous instance, and in a second case to some extent the withdrawals actually missed the river; the checkerboard withdrawals missed the stream at certain points. What have you to say about that?

Mr. GARFIELD. It would not be surprising if mistakes of that kind occurred, particularly on the unsurveyed portions of the public domain, and even on the surveyed portions. We have, unfortunately, many instances of very carelessly run surveys, and therefore in attempting to withdraw or even to enter by the descriptions simply of the maps we may make mistakes of that character. Those will, of course, be remedied by exact surveys of the fields.

Mr. PEPPER. Do you know what maps were used during your term, and whether they were Land Office maps or what maps, as a basis of the description of the lands withdrawn?

Mr. GARFIELD. I should suppose the Land Office maps, because they would give the section numbers; but it was, of course, intended that we should use the maps that would give us the greatest accuracy possible.

Mr. McCall. They do not always show exactly where the streams were located?

Mr. GARFIELD. No, sir; not always.

The CHAIRMAN. The meander lines were not always accurate there?

Mr. GARFIELD. They were not.

Mr. PEPPER. Mr. Garfield, had you gotten around to the agencies through which subsequent field examinations should be made, as, for instance, whether you should do it through the Reclamation Service or the Geological Survey or how?

Mr. GARFIELD. No; we had not. No determination had been reached. I had thus far had the reclamation engineers do it, as they were the men on the ground whom I thought best qualified to make reports.

Mr. PEPPER. They were the men who would be able to actually produce for the information of the committee maps and details in respect to the matters that you have dealt with generally?

Mr. GARFIELD. They are; yes.

Mr. PEPPER. Now, leaving that matter of withdrawals for the moment, the committee have had under consideration, Mr. Garfield, the several bills that were introduced in Congress in February and subsequent months of 1908, dealing with coal lands. Are you able to make a little statement to the committee from your knowledge of that situation as to what legislation was so introduced and what the relation of the different acts to one another was?

Mr. GARFIELD. During the winter preceding the spring of 1908 we had under consideration the question of coal-land legislation. We all agreed that there was great need of a change in the coal laws. They were not in condition to make possible the ready and wise development of the coal fields and were very inapt to meet present-day conditions, and I had been in the department with the other officers there who were familiar with the question in studying the entire problem of how best we could meet those conditions, and there were a number of bills introduced in Congress in that session dealing with the coal-land laws generally, or with specific portions of the coal-land laws, or with specific locations, such as the Alaska coal lands. Those bills were all pending during the spring of 1908. The bills to which my attention has been called in the record are the bills that were known as the Cale bill, the Heyburn bill, the Senate bill, the Nelson bill, and the—

The CHAIRMAN. The Mondell bill.

Mr. GARFIELD. The Mondell bill in the House. Those, as I recall, were the principal measures pending before Congress.

Mr. PEPPER. Were all of those or were any of them general coal bills—that is, dealing with the coal problems at large and irrespective of the area in which it was situated?

Mr. GARFIELD. Two of them were coal bills dealing with the general situation—the Nelson bill and the Mondell bill. Two others, the Cale bill and the Heyburn bill, dealt with Alaska particularly.

Mr. MADISON. But the Nelson and the Mondell bills could have covered Alaska?

Mr. GARFIELD. The Mondell bill could have covered Alaska if the amendments which were later suggested had obtained.

Mr. MADISON. But as originally introduced would they have been applicable to Alaska?

Mr. GARFIELD. The Nelson bill would have been. I can not recall the original form of the Mondell bill, whether it applied to the Alaska situation or not, but in the final form it did.

The CHAIRMAN. Let me interrupt you. I think that bill that I introduced was prepared in your department.

Mr. GARFIELD. I think so.

The CHAIRMAN. It was a department bill.

Mr. GARFIELD. I believe so.

The CHAIRMAN. Yes.

Mr. PEPPER. Now, taking up the Alaska coal measures, the legislative measures I mean, what were the features that were common to the bill that dealt specifically with Alaska, if they had common features, and what were their points of difference, if they had points of difference?

Mr. GARFIELD. Possibly it would be simpler if I should explain each bill by itself, and then point out the differences as I recall them.

Mr. PEPPER. It would be a great deal simpler; will you please do it?

Senator FLETCHER. The Nelson bill you had prepared in your office?

Mr. GARFIELD. That was a general coal bill.

Senator FLETCHER. It was prepared in the Interior Department?

Mr. GARFIELD. Yes, sir.

Senator FLETCHER. The Cale bill was prepared by the Commissioner of the General Land Office, was it not?

Mr. GARFIELD. I so understand from the statements made here; I did not know at the time that it was.

Senator FLETCHER. That is the bill referred to on page 510 [reading]:

As Commissioner of the General Land Office, I had drafted the Cale bill, which was introduced in the House through the Committee on the Public Lands.

That is a statement from the present Secretary of the Interior, who was then the land commissioner?

Mr. GARFIELD. Yes, sir; and the bill introduced by Senator Heyburn was the other—Senate bill.

Mr. PEPPER. Was a Senate bill?

Mr. GARFIELD. Was a Senate bill; and the bill introduced by Mr. Mondell was the general coal bill being considered in the House.

Senator FLETCHER. Did the other department have anything to do with the Heyburn bill and the Mondell bill?

Mr. GARFIELD. Not with the Heyburn bill, and not with the original Mondell bill, as I recall it, but with the subsequent form of the Mondell bill, the department had a great deal to do, because it made the recommendations that appear in the final form of the Mondell bill as printed in the report of the committee.

Senator FLETCHER. Do you know the attitude of the land office or of the land commissioner of public lands as to the Heyburn and the Mondell bills at the time they were introduced?

Mr. GARFIELD. If I get your question correctly, the attitude of the General Land Office?

Senator FLETCHER. Yes.

Mr. GARFIELD. They were introduced under two separate commissioners. The Cale bill was introduced February 27, 1908, when

Mr. Ballinger was commissioner, and Senator Heyburn's bill was introduced, I think, in the middle of April, when Mr. Dennett was commissioner. I may be in error as to the dates, but I can very readily correct them.

Mr. PEPPER. Would you be kind enough, if that was in line with your own suggestion, to take up the first bill; that is, the Cale bill, or whichever one you please?

Mr. GARFIELD. The Cale bill is the first.

Mr. PEPPER. Which was the first in point of time, and explain its relation to the other measures? It is in the testimony, at page 1314.

Mr. GARFIELD. The Cale bill is numbered H. R. 18198; was introduced February 27. The Mondell bill, which I will compare with it, was H. R. 19421, introduced by Mr. Mondell. The date of that I haven't here. The Cale bill had for its purpose wholly the Alaska coal situation. The Mondell bill had for its purpose the entire coal situation, both in Alaska and on the mainlands. The Cale bill provided that the locations made in good faith prior to November 12, 1906, or in accordance with the circular of instructions issued May 16, 1907, were not subject to the provisions of this act, but as to those entries, those locations made in good faith, they might be consolidated to the extent of not exceeding 2,560 acres of contiguous land, and be paid for at the price of \$10 an acre. That is, as to the other coal lands in Alaska they would be acquired thereafter in accordance with the terms of the Cale bill. The general terms of the Cale bill were that where the area was limited to 2,560 acres, at a price of \$10 per acre, that a certain portion of the surface was reserved for mining purposes, and the balance was not acquired by the applicants for the coal. Section 4 provided for certain features relative to a minimum mining operation during the year, and to an antimonopolistic regulation. The Mondell bill, the number of which I have hitherto given, was a general coal bill and had for its purpose an entire revision of the coal-land laws of the United States.

Mr. PEPPER. If it will not disturb your trend of thought, may I ask in reference to the Cale bill what was the relation to the pre-existing law of the area of consolidation permitted therein?

Mr. GARFIELD. Under the preexisting law there could be no consolidation above 320 acres, I think, except where development had gone on to the extent of \$5,000, and that a larger amount might be allowed for larger development, 640 acres; otherwise it was limited to 160 acres to each individual.

The CHAIRMAN. That was the act of 1894?

Mr. GARFIELD. No; 1904.

The CHAIRMAN. I mean 1904.

Mr. PEPPER. And the coal-land price under the old law and under the Cale law, as it appears in the testimony, was what?

Mr. GARFIELD. Under the old law it was \$10 an acre, and under the Cale bill it was still \$10 an acre.

Mr. PEPPER. Well then, you were going to speak on the Mondell bill.

Mr. GARFIELD. With the Mondell bill—I thought I had a copy of it here.

The CHAIRMAN. You have the original bill in here [indicating a bundle of papers].

Mr. GARFIELD. I have one here now, Senator Nelson.

Senator FLETCHER. You would want that as it was originally introduced, and then as it passed, I suppose?

Mr. GARFIELD. The form of the Mondell bill which I wish to consider is the one appearing on page 157 of Senate Document 248, and is the form of the bill which was drafted by me and sent to Congress for its consideration. Under the terms of that bill there have been amended the general coal-land laws of the United States. Now, applying the terms of this bill to the Alaska situation, this would have happened: All the entries in Alaska, under section 9 of the bill, whether legal or illegal, might have been patented, provided the entrymen brought themselves completely under the terms of this bill. Under the terms of the bill the entire area would have been reclassified at a price that would have been a fair price in the market, and the areas which the entrymen might have acquired were the same as those in the Cale bill, but they would have been obliged to pay the classified price fixed by the Secretary of the Interior. They would have been obliged to release to the Government all land that they claimed in excess of the four sections and all surface in excess of the amount provided for under the bill. They furthermore would have been required to reconvey to the United States any coal lands that they might have received theretofore as patents in excess of the four sections, and they would have subjected themselves to the other provisions of the bill—

The CHAIRMAN. Monopolies and trusts?

Mr. GARFIELD. Monopolies and trusts. I was looking for that clause.

Senator FLETCHER. Section 5, I suppose.

Mr. GARFIELD. I think it is. Section 5; you are quite right. Therefore the difference in practical results between the two bills, so far as Alaska was concerned, was this, that under the Cale bill entries that were made would have been made at \$10 an acre; under the bill which I advocated any entries that were made would have been paid for at the classified price then fixed by the Secretary of the Interior.

Mr. PEPPER. The provisions in regard to monopolistic control and so on were substantially the same in both bills?

Mr. GARFIELD. They were substantially the same in both bills.

Mr. PEPPER. And the area of consolidation was the same in both bills?

Mr. GARFIELD. They were.

The CHAIRMAN. And these illegal claims, provided they had paid the price, could come in under the act, could they not? I mean these illegal claims; they could have come in provided they had paid this new price, could they not?

Mr. GARFIELD. They could have come in under the law; yes.

Mr. PEPPER. And that price was fixed or to be fixed by the Secretary of the Interior in accordance with the first section or the second section of the bill. The language of the bill is as follows [reading]:

That every citizen of the United States who has not acquired title to coal lands from the United States, or any association of persons who are thus severally qualified, may purchase, by legal subdivisions, not to exceed two thousand five hundred and sixty acres of such coal lands in contiguous, reasonably compact areas, at not less than ten dollars per acre, or such other and higher price as the Secretary of the Interior may fix after examination, having due regard to the quality of the coal, thickness, character, and depth of the coal veins, and means of transportation and accessibility to markets.

Senator FLETCHER. Then what would control the Secretary of the Interior in fixing the price?

Mr. GARFIELD. His own discretion.

Mr. PEPPER. Do you mean by that—

Senator SUTHERLAND. Based, I suppose, on reports and examinations?

Mr. GARFIELD. Yes, sir; in accordance with the terms of the bill, after the reports were made, then it was for him to determine what price should be fixed.

Mr. PEPPER. Then he was substantially in the position of a vendor or a lessor, dealing with property of his own for disposition?

Mr. GARFIELD. Yes, sir.

Senator ROOT. Would that be an exercise of discretion in regard to specific transactions, or would he first classify the lands impartially?

Mr. GARFIELD. He would first classify the lands.

Senator ROOT. And then if A, or B, or C claimed any, he would have to pay the classification price?

Mr. GARFIELD. Yes, sir. There was also included in this bill, the Mondell bill, the further provision relative to an optional form of lease, which was not included in the Cale bill, that made another wide difference between the two bills. That was provided for in section—

Mr. BRANDEIS. When was that bill introduced, Mr. Garfield—the Mondell bill?

Mr. GARFIELD. The Mondell bill, I see by that copy there, was introduced in March, 1908. The optional-lease provision does not appear in this printed copy of the bill, but does appear in the report or in the hearing which I had before the House committee and the suggestions that I made at that time. I shall have to get a copy of that; I thought I had it among my papers here, but it does not seem to be here.

Mr. BRANDEIS. Of April 20?

Mr. GARFIELD. It is the report of April 20, and it appears in the list of orders on pages 91 to 95, and on the top of page 95 are the suggestions that I then made for the giving of the option of purchasing or leasing coal departments. I suggested 4-B and 4-C to be inserted in the bill.

The CHAIRMAN. It is evident, Mr. Pepper, that you can not get through with Mr. Garfield to-night. It is now a little after 5 o'clock, and if there is no objection by counsel we will now adjourn until next Thursday at 10 a. m.

The record will show at this point the following corrections of certain portions of the testimony. These corrections have been agreed to by counsel and submitted by them to the committee.

(The changes are as follows:)

Page 389, fourth line, omit second "not."

Page 389, nineteenth line, omit "up."

Page 389, thirtieth line, add at end of line the word "Yukon."

Page 444, second line from bottom, "Eckles" change to "Eccles."

Page 445, eighth line, a comma should be inserted between "all" and "I."

Page 447, twentieth line, omit "his."

Page 447, thirty-sixth line, "in them" should be omitted.

Page 457, ninth line from bottom, "P. C. Richardson" should be stricken out and "a forestry agent" inserted.

Page 458, eleventh line, "26" should be "20."

Page 459, fourth line from bottom, "we" change to "I."

Page 462, seventh line, insert "not" between "had" and "stolen."

- Page 462, thirteenth line, omit "among."
 Page 462, fourteenth line, change "you" to "he."
 Page 473, twelfth line, "Sullivan" change to "Richardson."
 Page 486, sixth line, change "you" to "he."
 Page 568, ninth line from bottom, second "I" change to "he."
 Page 571, twenty-first line from bottom, change "taking" to "making."
 Page 591, twenty-ninth line, change "that" to "the."
 Page 591, fortieth line, change "was" to "would be."
 Page 591, forty-first line, change "stopped making" to "to make."
 Page 594, sixth line from bottom, change "claims" to "claimants."
 Page 610, twenty-seventh line, "accepted" change to "expected."
 Page 610, thirtieth line, change "accepted" to "expected."
 Page 611, twenty-second line, change "we" to "they."
 Page 617, fourteenth line, change "they" to "we."
 Page 619, thirteenth line from bottom, "entries" change to "entry."
 Page 619, ninth line from bottom, "had" change to "have."
 Page 619, second line from bottom, "and" change to "but."
 Page 620, eighth line, "you" change to "they."
 Page 624, fourth line, insert "it" between "consider" and "a."
 Page 642, sixth line from bottom, "his" change to "this."
 Page 642, fifth line from bottom, "suggestion" change to "subject."
 Page 643, last line, "yes" change to "no."
 Page 647, second line from bottom, second "a" change to "the."
 Page 650 sixth line, "contained" change to "contains;" omit "is" and "in."
 Page 650, sixteenth line from bottom, "last year" change to "in past years;" omit "a."
 Page 650, fifteenth line from bottom, "case" change to "cases;" "defendant" change to "defendants."
 Page 653, fifth line, "they" change to "we."
 Page 655, twenty-fifth line, "Hosman" change to "Hosom."
 Page 657, first line, "Longer" change to "Stomer."
 Page 659, second line, insert "about the time," between "paragraph" and "he."
 Page 659, third line, omit "and then."
 Page 671, eighteenth line from bottom, "is" change to "was."
 Page 673, eighteenth line from bottom, "17" change to "7."
 Page 680, eleventh line from bottom, insert "not" between "do" and "think;" change "change" to "charge."
 Page 700, eighteenth line, insert "this is" between "not the."
 Page 714, tenth line from bottom, "procured" change to "made."
 Page 717, twenty-fourth line, "them" change to "him."
 Page 717, twenty-sixth line, "me" change to "him."
 Page 729, fifteenth line, "filed on" change to "entered."
 Page 732, seventeenth line from bottom, omit "Allen."
 Page 732, eighteenth line from bottom, omit "see" and insert "Seattle."
 Page 747, thirteenth line, "heard" change to "know."
 Page 760, twenty-eighth line, "Portland" change to "Spokane."
 Page 765, tenth line, "Davis" change to "Glavis."
 Page 766, twentieth line, "yes" change to "no."
 Page 591, third question from bottom of page, "cause" should be "course," so that the question will read:
 "Mr. VERTREES. And that was the course; and now I will come to the reason—you regarded that as sensible and economical?"
 Page 737, first line, "covered" should be "gathered," so that the question, in part, will read:
 "Mr. VERTREES. * * * merely as to the manner in which the evidence should be gathered, and that arose in the summer of 1909, did it not?"
 Page 739, ninth line from bottom of page, "presuming somewhat upon" should be "resuming somewhat," cutting out the word "upon," so that the question, in part, will read:
 "Mr. VERTREES. * * * Now, if I understand you, Mr. Glavis, resuming somewhat what you have said," etc.
 Page 765, third line from bottom of page, "short of wind" should be "sure to win," so that the question will read:
 "Mr. BRANDEIS. Do you mean Mr. Dennett's view of the case was that it was a strong case and he was sure to win?"
 Page 766, eighteenth line from top of page, "you" should be "he," so that the question will read:
 "Mr. VERTREES. Yes; I asked you if he did not write that at that time."

The CHAIRMAN. The record will also show the following calls for documents:

MARCH 5, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee of Congress, Washington, D. C.

DEAR SIR: We beg leave to ask that the Secretary of the Interior be directed to produce to this committee the following papers:

(1) All copies and drafts now existing in the files of the Reclamation Service of a letter finally sent by the Secretary of the Interior to Governor Herrick on or about April 10, 1909.

GEORGE W. PEPPER,
NATHAN A. SMYTH,
Counsel for Gifford Pinchot.

MARCH 5, 1910.

HON. KNUTE NELSON,
Chairman Joint Committee.

DEAR SIR: I beg leave to ask that the Secretary of the Interior and Messrs. Pierce, Dennett, Lawler, Schwartz, Finney, and Carr be directed to produce:

(1) Original letter of L. R. Glavis to commissioner, dated June 10, 1908.

(2) Original (or if original not available) copy of telegram of Oscar Lawler to H. H. Schwartz, to which telegram of Schwartz to Lawler, appearing on page 99 of Senate Document 248 is a reply; also originals (and so far as originals not available, copies) of all other letters, telegrams, and memoranda and papers of, from or to or made by Messrs. Ballinger, Dennett, Schwartz, Lawler, Finney, or Carr dated, written, or made prior to September 20, 1909, not contained in Senate Document 248 relating to the Cunningham claims or the so-called Glavis charges, including among others, all papers or memoranda submitted by them or any of them to the President or to the Attorney-General.

(3) Original letter Glavis to Schwartz, dated about November 22, 1907, heretofore called for.

Yours, truly,

LOUIS D. BRANDEIS.

MARCH 5, 1910.

[On the Secretary of the Interior.]

(1) Copies of all notices of approval by the Auditor for the Interior Department of accounts between the Forest Service and the Indian Office since September 3, 1908, and described on pages 1415 to 1429, inclusive, of record of testimony.

KNUTE NELSON,
Chairman Joint Committee.

MARCH 5, 1910.

[On the Secretary of the Treasury.]

(1) Copies of all certificates of cross transfers from the appropriation of the Indian Office to the appropriation of the Forest Service since September 3, 1908.

KNUTE NELSON,
Chairman Joint Committee.

The CHAIRMAN. The record will also show the following returns to calls for documents:

THE SECRETARY OF THE INTERIOR,
Washington, March 4, 1910.

SIR: In further compliance with your letter of February 12, requesting "All recommendations by the Reclamation Service to the Secretary of the Interior on and after December 4, 1909, to date, looking to the restoration of lands withdrawn for reclamation and power-site purposes," I have the honor to transmit herewith copies of restora-

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tions of lands withdrawn for "reclamation" purposes, under the several projects, as follows:

Bear Lake project, Utah-Idaho.	Klamath project, Oregon-California.
Bellefourche project, South Dakota.	Kremmling reservoir, Colorado.
Buford-Trenton project, North Dakota.	Little Colorado River project, Arizona.
Chelan project, Washington.	Musselshell project, Montana.
Cimarron project, Oklahoma.	Nesson project, North Dakota.
Colorado River project, California.	Okanogan project, Washington.
Dubois project, Idaho.	Rio Grande project, New Mexico.
Fort Berthold project, North Dakota.	Shoshone project, Wyoming..
Grand Valley project, Colorado.	Sun River project, Montana.
Hondo project, New Mexico.	Umatilla project, Oregon.
Humboldt project, Nevada.	Walker River project, Nevada.
Huntley project, Montana.	Yuma project, Arizona-California.

Copies of the remaining "reclamation" restorations are in course of preparation, and will be furnished as soon as possible.

The restorations covering lands withdrawn for "power-site" purposes have heretofore been furnished.

Very truly, yours,

R. A. BALLINGER,
Secretary.

HON. KNUTE NELSON,
Chairman, Joint Committee of Investigation.

THE SECRETARY OF THE INTERIOR,
Washington, March 4, 1910.

SIR: Complying with the request contained in your letter of the 2d instant for "the books and papers showing for the years 1907, 1908, and 1909 the efficiency records and state of the business in the several divisions of the Land Office from week to week and month to month, or however otherwise such records are kept," I have the honor to forward herewith the original reports, showing the condition of the public business in the various divisions of the General Land Office, submitted to the department by the commissioner of said office in accordance with the provisions of section 7 of the act approved March 15, 1898, for the calendar years 1907, 1908, and 1909.

With respect to your request for "original affidavit of Clarence Cunningham dated September 4, 1908," you are informed that the same is in the possession of Special Agent Sheridan, and will be secured and forwarded to you as soon as possible.

Very truly, yours,

R. A. BALLINGER, *Secretary.*

HON. KNUTE NELSON,
Chairman Joint Committee of Investigation,
United States Senate.

(Thereupon, at 5.05 p. m., the committee adjourned until Thursday, March 10, at 10 o'clock a. m.)



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